Chairman Peat called the Paw Paw Township Planning Commission meeting to order at 6:00 P.M. on June 28, 2018 at the Township Hall.

PRESENT: Randall Peat, James Tapper, Ivan Olsen, Phillip Arbanas, Fran Sanders, Kip Kerby, and Bill Johnson.

ABSENT: None.

ALSO PRESENT: Ken & Judy Barnes, Kristen & Mike Ely, Sue & Dave Crouse, Brian Crouse, John & Linda Tapper, Gabriela Bastidas-Rodriguez, Jim & Mary Hood, Catherine Kaufman (Township Attorney), Bert Gale (Zoning Administrator), and Kelly Largent (Zoning Administrator).

APPROVAL OF THE AGENDA:

The Chairman requested the following amendments to the agenda:

1. Removal of Rebecca Harvey – Zoning Ordinance under new business.
2. Removal of the Paw Paw Community Gateways under old business.
3. The addition of Commercial Wind/Solar under other business.

Olsen asked about the date the removed items would be on the agenda. The Chairman stated they would be on the July 26, 2018 agenda.

Motion by Kerby, supported by Olsen to approve the agenda as amended. The motion was unanimously approved.

APPROVAL OF MINUTES:

May 24, 2018: Motion by Kerby, supported by Sanders to approve the May 24, 2018 minutes as submitted. The motion was unanimously approved.

PUBLIC COMMENT: None.

NEW BUSINESS:

Public Hearing for Special Event Facilities:
The Chairman opened the Public Hearing at 6:04 P.M. The Chairman stated the address for a special event facility is 44483 64th Ave. The Chairman asked for public comment. There was no public comment. The Chairman explained the noticing for this request. He stated the requirement of 300-foot requirement by State Law. This distance identified 12 – 13 parcels for notification. Based on previous experience the Township felt that this was not an adequate number so the notification distance was increased to 1,000 feet. This distance identified the same 12 – 13 parcels. The Township decided to use the both sides of closest roads as the boundary due to residents input regarding notifications. The Chairman noted the following 2 – 3 items as concerns:

1. Provisions to prevent access to the lake.
2. The venue is indicated as a maximum of 150 persons. The plans indicate 59 parking spaces. He noted that this is in fact a commercial activity and want to be careful regarding the parking requirements.
3. The frequency (number of events per week) may be too much for the first year. He noted that 5 – 6 times a week is different from a Friday setup, event on Saturday, and teardown on Sunday. He asked the applicant to please provided the actual number of events requested and justification.

The Chairman thanked the applicant for doing a good job with the site plan and community outreach.

Tapper stated that the Township is in litigation for a Special Event Facility so why should the Township move forward with this request. The Township Attorney explained the litigation is on the decision of the Township Board. It is with the Van Buren Circuit Court and the Court will review the process and decision for compliance with the law. So, the Township can’t punish someone else and they have to take action on each individual proposal otherwise they would violate procedural due process requirements of the law. The current litigation is not challenging the zoning ordinance but the decision of the Township Board. The Court will review the record previously made for the Ely’s request and not the zoning ordinance.

The Chairman asked Ms. Largent to walk through each of the items on the staff report identified as a condition not met. The Township attorney asked the Chairman if the Planning Commission is accepting the staff report into the record. The Chairman stated yes. Ms. Largent requested that Mr. Gale review these items in order to allow her to continue taking notes for the minutes.

Mr. Gale began reviewed the following items:

Section 42-302:

12. The size of the sewer and water lines/system. The applicant has submitted their applications to the Van Buren Health Department. Mr. Gale recommends that a condition of approval for these systems be obtained prior to the issuance of the Certificate of Occupancy.

15. Information as may be required by the Zoning Administrator, Planning Commission or Township Board to assist in the consideration of the proposed development. Mr. Gale
explained that this is for additional information not in the site plan that the Planning Commission determines is relevant for the Commission to make a decision.

Section 42-204 (J): The photometric plan can be found on page 4 of the submitted plans. Mr. Gale noted that the light by the resident’s drive footprint bleeds over the proposed property line. Mr. Gale recommends that a condition of the Zoning Administrator to verify adjustment to photometric plan when amended plans are submitted.

Section 42-204 (P): This was discussed in item 12 of section 42-302 and the recommendation by Mr. Gale is the same.

Section 42-204 (U): Mr. Gale stated that the dumpster fence is indicated on the plans as an enclosed fence but there is no detail for the fence provided in the submitted plans. The applicant stated that it is to be a wooden fence 6-feet in height with gates for access.

Section 42-239 (5) (c): This was discussed in Section 42-204 (J) review and the recommendation by Mr. Gale is the same.

Section 42-239 (5) (d): Ms. Largent was asked to discuss this by indicating the parking screening on the site plan. Ms. Largent indicated on the site plan that the parking area was not screened from the proposed East property line. She noted that there is 350 feet from the proposed East property line to the Stanek’s property line which has an existing tree line. Ms. Largent also noted that this 350 feet of frontage would meet the zoning requirements for frontage if the applicant decided to split this in the future.

The applicant indicated that the parking area is at a lower elevation and that a ridge exists between the parking area and the proposed East property line. The parking area is located in a “bowl” so it is not open to the neighbor’s view. The Chairman asked if the applicant intended to split off this area in the future. The applicant stated there were no plans to split this area to the east and this area is planted in wildflowers which grow to a height of approximately 3 feet.

The Township Attorney stated the Planning Commission can make a condition of the Special Land Use permit that a surety bond be established for the screening, but it cannot be open ended it has to have a termination date.

Mr. Barnes, owner, asked about land splits for this zoning district. Could they be smaller than 10-acres? The Chairman explained how every 10-acres would allow a 2-acre split for a residence.

Section 42-110 (23) (g): Mr. Gale stated that a parking attendant is not mentioned in the submitted plans. The applicant stated that it was left off because they wanted to ask about this requirement. They have a long driveway and is easy to access. The Chairman stated that the attendant is only during the arrival of guests. The applicant stated that they will provided an attendant.
Arbanas asked if any misuse of the parking area would be noticed and if the Township would be able to address this.

The Chairman stated that if parking is expanded the applicant will need to come back for this expansion and go through this process again. The Special Land Use permit will be an annual review at first and then the review period will likely be extended to a longer period. The applicant asked what could cause the special land use permit to be pulled (suspended or terminated) by the Township because they are looking at an investment of approximately $600,000 to $700,000. The Chairman used the parking area as an example. He stated that for instance the parking area indicates 59 spaces and say you have 100 cars parked for events, this would be an example of why the special land use permit would be suspended or terminated. Another example is you indicate there will be no noise and the Township receives complaints from the neighbors about the noise level.

The Chairman summarized for the Planning Commission that they have received an application for a special event facility and their available options are to make a recommendation to the Township Board or to table this matter for another month. The Chairman asked the applicant if there were any further comments they would like to make. The applicant stated yes. The applicant noted that there is nothing in the ordinance to limit the number of events per week. She stated that 1 event per week will not make the payments on the facility. She stated they are proposing to be open for events from April to November with June, July, and August to be their busiest months with every Friday and Saturday booked. She also wanted to address the question about locating the facility on the west side of the lake. They chose not to locate the facility on that side because they didn’t want people to have access to the lake and the proposed location presents a more difficult access with woods and low wet areas. The applicant also addressed the expansion of the parking area and stated they have calculated the maximum occupancy of the building to be 165 to 175 guests with a spacious dance floor.

Section 42-243 Loading/unloading. Mr. Gale stated that the physical size of this space was not provided on the submitted plan and that the location was not indicated but appeared to be between the building and the parking area on the northeast corner of the building. The applicant indicated that this location for the loading/unloading was correct and they will have the submitted plans corrected to indicate the dimensions.

The Chairman asked about the information provided in Section 42-242. Ms. Largent explained that this if for informational purposes only as a comparison for what would be required if the special land use requirements did not allow for a 1 space for every 4 persons.

The Chairman asked the Planning Commission members if they felt this should be tabled until the number of parking spaces, number of events per week, and number of guests information was received from the applicant. The members indicated they had no objection. The Chairman asked the applicant if this was acceptable to them. They stated yes.

The Planning Commission stated that the applicant will be addressing the following items with the amended plans:
1. All other department requirements
2. Lighting doesn’t spill over to adjacent property
3. Detail on the dumpster fence enclosure
4. The necessary screening for the parking area if a future split of the property to the East were to occur.

The Chairman asked the Township Attorney for her opinion. She stated she would prefer the Planning Commission take action on a complete site plan to prevent confusion on what is approved.

Kerby asked if the special land use permit goes with the property and not the owner of the property. The Chairman stated the special land use permit goes with the property.

The Township Attorney stated that a special land use is appropriate for this use as the impacts of the use can be managed.

Sanders asked if they can require a vestibule be added. The applicant stated that the main entrance faces West, so they didn’t have a vestibule since the noise from this area is directed away from the neighbor and would only affect the applicant. The Chairman stated that the vestibule would address such issues as sound and heating and cooling. Kerby stated a vestibule like the one on the Township Hall for example. He also stated that with it being on the West side of the building it would help with wind and snow.

Johnson asked about the number of restroom spaces in the men’s restroom. Mr. Gale stated that the plumbing and building code will dictate the minimum number for this facility.

The applicant asked what information was needed for the loading/unloading area. Mr. Gale stated the dimensions and identification of the location.

The requirements for the parking screening were also reviewed by Mr. Gale. Mr. Gale stated that the ordinance stated that the screening should be a wall, fence, compact plantings of 4’ in height. It does not have language for considering elevations. He also noted that there are wildflowers planted in the field next to the parking area which are approximately 3 feet in height.

Motion by Kerby, supported by Olsen to table the Special Land Use request for a Special Event Facility at 44483 64th Ave. until July 26th allowing time for the applicant to obtain the information and amend the site plan as necessary. The motion was unanimously approved.

The Chairman closed the Public Hearing at 7:13 P.M.

OLD BUSINESS: None.

OTHER BUSINESS:

Wind/Solar
The Chairman stated that in the past there was no pressure to amend the zoning ordinance to include wind/solar language. Now, this industry is booming, and the Township has received inquiries from 2 energy companies. The inquiry for solar is for utility scale systems in the agricultural areas for 50 to 60-acre parcels and the inquiry for wind is also for utility scale systems in the agricultural areas for 10-acre parcels. He stated that the new zoning ordinance addresses personal residential use only.

The Chairman stated that the Planning Commission should consider that humans have evolved as predators and we key on movement. Wind turbines move and in his opinion are distracting. Solar has no movement. So, the Planning Commission has to consider utility scale wind and solar facilities. The Chairman stated that tonight was for the members information and to start thinking about this topic for the next meeting.

Sanders stated that the Township Board has discussed this, and their consensus is solar is ok, but they are not in favor of wind energy as a utility scale facility.

Sanders asked if the zoning ordinance review would be on the agenda for the next meeting. The Chairman stated yes. Ms. Largent stated that Ms. Harvey is updating.

ADDITIONAL PUBLIC COMMENT: None.

ADJOURNMENT:

Motion by Tapper, supported by Kerby to adjourn the meeting at 7:19 PM. The motion was unanimously approved.

Respectfully submitted,
Kelly Largent
Zoning Administrator