Chairman Peat called the special meeting of the Paw Paw Township Planning Commission meeting to order at approximately 7:00 on August 11, 2010 at the Township Hall.

Those present were: Randall Peat
Phil Arbanas
Tom Beam
Kip Kerby
Ivan Olsen
William Mihelich
Donald Stull

Absent was: None

Also present were: Bruce Dean, AGS

APPROVAL OF AGENDA –

On motion by Olsen, seconded by Mihelich, the agenda was unanimously approved.

APPROVAL OF MINUTES – April 22, 2010

On motion by Olsen seconded by Mihelich the minutes of April 22, 2010 were unanimously approved

PUBLIC COMMENT on non-agenda items - none

PUBLIC HEARING – opened at 7:03 pm

Peat described that the purpose of hearing is consider whether the operation of the Roadhouse Grill is in accordance with the approved special use permit (04-14-2009). An overview of the special-use-permit process and limitations were described for the information of the members of the audience. Peat introduced the owner, Richard Conway, to provide a summary of his outdoor entertainment use.

Mr. Conway stated the trend across the country is for restaurants to have music, dance and outdoor entertainment. He described that the restaurant has sponsored charity events. Mr. Conway stated he is aware that the Township, the police and other agencies have received complaints during the period that the outdoor entertainment has been in operation, stating that
he believes that the level of “noise” generated by the outdoor entertainment is acceptable, but that he has retained a sound engineer and he has some proposals for sound reducing modifications to the site. The proposals include construction of a double-walled, insulated wall above the existing fence enclosure, and in the future to re-orient the outdoor entertainment area to have the stage face south.

Kerby asked about the poles that are there, will they support the proposed sound walls.

Mr. Conway confirmed that the existing poles would support the proposed wall.

Kerby asked about how the volume is monitored.

Mr. Conway stated that he has an employee, Dan Baker, who currently monitors the band’s volume during performances.

Mike VanSickle, 54731 Orchard Lane, stated that it is not his intention to shut down the outdoor entertainment, and stated that he has offered to assist with the resolution of the sound issues. He suggested that the steps taken by the Village of Paw Paw to regulate similar uses in the Village could be reviewed and incorporated by the Township.

Richard Pender, 55229 Orchard Lane, stated that he applauds charitable work and the benefits of the operation to the economy of the area. His concern is about the effect of the sound on the neighborhood (Orchard Lane), and asked if the members of the PC had his diary tracking the sound levels observed at his home, which the members confirmed had been distributed with the agenda.

John DePierre, 40218 Red Arrow Highway, stated that he has never heard the music generated at this site, and stated that his concerns are related to the operation of Coca-Cola, Moyle Trucking, and the I-94 Highway noise. He feels that the community needs to support the businesses and restaurants to build the local economy.

Jim Heldt, 55148 Orchard Lane, stated that the sound wakes up his family, over the sounds of fans in the home and his air conditioning equipment operating west of his home.

Janet Heldt, 55148 Orchard Lane, stated that her concern is that the children’s schoolwork suffers from the noise and the effect on their sleep.

Lenore Rosco, Borderline Band, stated that when her band performed at the restaurant a reading of 73 ohms was the maximum. When the volume is lower than that the music, the performance is negatively affected.

Olsen stated that sound can carry based on contours of the land, and Orchard Lane is the high spot in the area.

Louis Abnet, 54372 Orchard Lane, stated that he is the highest and furthest west home in the Orchard Lane neighborhood, and the sound is very faint at his site.
Chuck Coglin, stated that he did hear the band loudly one time, and when he made Mr. Conway aware, Mr. Conway indicated that he would not have that band back.

Lenore Rosco, stated that she supports the re-orientation of the entertainment, and that the zoning issues should be addressed to allow this.

Kim Jones, stated that she does not live near by, but is a business owner in the area. She asked how far Mr. Conway has to go to satisfy the few that have complained.

Tony Dacoba, owner of La Cantina, 139 West Michigan, stated that he is interested to hear that the Roadhouse Grill is the only restaurant making money in the area, and that successful businesses help other business in the area.

Jack Gregory, musician, stated that Mr. Conway has made great effort to minimize the sound emanating from the site. He stated his belief that atmospheric conditions can change the characteristics of sound, and how far it travels.

Richard Pender, stated that comparisons to I-94, Coca-Cola, or the dairy farm are not valid, as they are appropriately located in industrial and agricultural areas of the Township.

Paul Showers, stated that he supports the operation of the outdoor entertainment.

Larry Bowerman, retired public safety officer, stated that in his opinion the issue should be worked out, and that the outdoor entertainment should continue.

Don Field, of the Unknowns, asked whether the school could be made to limit sound from the marching band and other events.

Craig Davis, stated he believes that the harvest festival holds outdoor events, and that some people may be too sensitive to the noise, but the sound is reasonable. Some people will never be happy with the situation. The rules should not be changed, and since there are no specific standards, the operation should be allowed to continue. He believes in relation to marching bands, and the wine and harvest festival, the sound from this site is minimal.

Richard Pender, stated that the outdoor entertainment operation in question is a commercial enterprise, not a community event such as the festival, the band or sporting events.

Gary Mitchell, stated that noise is noise, but that he was at Mr. Abnet’s home recently and he could barely hear the band from that location.

Lenore Rosco asked how it is that the operation is affecting the school children, since the entertainment takes place in the summer.

Janet Heldt stated that the bands continue to play into the fall, or as long as the weather allows.
Joyce VanSickle, 54731 Orchard Lane, stated that events such as high school bands, wine and harvest festival are occasional, and that the Roadhouse performances are two, three and four nights a week.

Pam Pender, 55229 Orchard Lane, stated that the guitars can be heard and words understood while standing on her deck, which is on the east side of the her home. She does not want to have Mr. Conway stop the operation, but rather asks that everything possible be done to control the sound, and its effect on the neighborhood.

Mike VanSickle, suggests that a sign be wire to the sound meter to indicate that sound is too loud; the sign would signal the band to reduce the volume.

There was discussion among the members regarding their visits to the locations along Red Arrow Highway, and along Orchard Lane.

Mr. Conway stated that the speakers that are mounted above the fence are for his personal use, and are not part of the performances. He stated that he does everything he can control the sound leaving his site.

Stull invited the members of the audience to attend the Township Board on 08/12/2010, and stated that he will be making a report to the Board regarding this hearing.

Beam asked about the current direction of the speakers, and whether they were ever focused in the direction of the Coca-Cola plant.

Conway confirmed that he had tried that but the horns in particular make sounds that carry differently, and that the sound of the music was not good.

Bob Dullam stated that the solution should focus on the protection of the neighborhood, and asked whether some sound control could be placed near the affected homes.

Stull asked about the normal hours that the bands play.

Conway stated that on bike night the band plays from 5:00pm to 9:30pm, and on weekends normally to 11:30 to 12:00.

Peat stated that the Planning Commission would consider the information received and formulate a recommendation for the action.

The public hearing was closed at approximately 08:07 pm.

Olsen asked for input from the Township Attorney.

Manning stated that the resolution does not have to be all-or-nothing in terms of discontinuing the outdoor entertainment or leaving the operation as it is. Working with the applicant to minimize the effect, and asking that the owner work with sound professional to take all
measures that can be taken. Some intermediate steps may be appropriate, while the issue is examined further.

There was discussion of the appropriate timetable for action on the issue. Peat stated he believed the input from the public this evening was useful. He read from the minutes of the meeting at which the Planning Commission considered the special use permit application (03-26-2009). He stated that he has been in the neighborhood, and finds that the measurement with decibel meters is subjective based on conditions. The proposal of a solution, whether it is a wall, or re-orientation of the stage, should include a written report from a sound engineer evaluating the measures in place, or recommending additional measures. He commended Mr. Conway for the operation of the business, and that he is the “hands-on” manager of the site. Peat requested a motion for discussion by the Planning Commission.

Following discussion of the calendar, the next meeting was set for September 30, 2010, and the August and September meetings will be cancelled.

Arbanas moved that Mr. Conway be required to submit a report from a sound engineer documenting recommended sound mitigating measures that can be instituted at the site. The report should be submitted within thirty days, and be considered by the Planning Commission at a special meeting to be held on September 30, 2010. The motion was seconded by Kerby.

During discussion, Olsen asked about whether a time limitation, as to closing time for the restaurant/outdoor entertainment, should be put in place as part of the motion. There was discussion of impact of imposing time limitations on the operation of the business.

Following discussion, the motion was unanimously approved, without amendment.

There was discussion of the results of the public hearing and the motion, and Stull confirmed that he would make a report to the Township Board. Peat confirmed that the process will continue, and that he appreciated the participation by the members of the audience.

ADJOURNMENT

On motion by Olsen, seconded by Mihelich, and unanimously approved, the meeting was adjourned.

Respectfully submitted,

Bruce Dean, AGS