

AGENDA
BOLINGBROOK PLAN COMMISSION

July 21, 2010

1. CALL TO ORDER: Chair: Robert Cawthon, Jr.
2. ROLL CALL: Vice Chair: Mary Rennels
Commissioners: Rick Campos, Ronald Elliott
Greg Jacobs, Talat Rashid, J.D. Rhoades
Libby Runge and Calvin Wright
3. APPROVAL OF MINUTES: July 7, 2010
4. PUBLIC HEARINGS: Special Use Permit for a Planned Development to
allow a Dental Office
Shining Smiles, 210 N. Bolingbrook Drive
Applicant: Milad Nourahmadi
Project No.: 416.10
Staff Presenter: Matt Eastman

Special Use Permit for a Planned Development to
allow a Gold Buying Business
Midwest Gold Buyers, 198 S. Bolingbrook Drive
Applicant: Marihas Muehl
Project No.: 415.10
Staff Presenter: Nicole Knapp
5. NEW BUSINESS:
6. OLD BUSINESS:
7. APPROVAL OF PLAN
COMMISSION REPORTS: PC 10.16 Approval of a Special Use Permit for a Massage
Therapy Establishment. Kneaded By Jeannie, 400 N. Schmidt
Road. Applicant: Jeannie Claycomb. Project No.: 412.10

PC 10.17 Approval of a Special Use Permit for a Planned Unit
Development. Matthew's Tobacco, 491 S. Weber Road.
Applicant: Matthew Matta. Project No.: 414.10

PC 10.18 Approval of a Special Use Permit for a Planned Unit
Development with Variances. L.M.R Home Health Care, 167 W.
Boughton Road. Applicant: C.M. Cea, Architect LTD. Project
No.: 413.10
8. CITIZENS TO BE HEARD:
9. CHAIR'S REPORT:
10. COMMISSIONER'S REPORT:
11. PLANNING DEPARTMENT REPORT:
12. ADJOURNMENT:

**A REGULAR MEETING OF THE PLAN COMMISSION
OF THE VILLAGE OF BOLINGBROOK
July 21, 2010**

CALL TO ORDER

Chairman Cawthon called the meeting to order at 8:00 p.m., Wednesday, July 21, 2010.

ROLL CALL

Present: Commissioners Greg Jacobs, Talat Rashid, Libby Runge (8:04 arrival), Calvin Wright, Vice Chair Mary Rennels

Absent: J.D Rhoades, Rick Campos

Staff: Planning & Zoning Administrator, Nicole Knapp; Planner, Matt Eastman

Press: None

APPROVAL OF MINUTES

Motion Vice Chair Rennels second Rashid to approve Minutes of the July 7, 2010, meeting of the Plan Commission.

Voice Vote: Unanimous
Motion carried.

PUBLIC HEARING

Motion Wright, second Rashid to open the public hearing.

AYES: Commissioners Jacobs, Rashid, Wright, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Rhoades, Campos, Runge

Motion carried, public hearing opened at 8:03 p.m.

SPECIAL USE PERMIT FOR A PLANNED DEVELOPMENT TO ALLOW A DENTAL OFFICE, SHINING SMILES, 210 N. BOLINGBROOK DRIVE APPLICANT: MILAD NOURAHMADI, PROJECT NO.: 416.10

Planner Matt Eastman presented the request. Shining Smiles is requesting approval of a Special Use Permit for a Planned Unit Development to allow a dentist office located at 210 N. Bolingbrook Drive. The subject property comprises of approximately four and two tenths acres (4.2) and is currently zoned B-2 Community Retail. Access to the subject property is from multiple access points off Bolingbrook Drive as well as a cross access point from Northridge Avenue. Per the Zoning Ordinance, an office is not permitted within the B-2 Zoning District. As such, the applicant is requesting a Special Use Permit to allow a dentist office at 210 N. Bolingbrook Drive. Per the applicant, the hours of operation would be Monday through Friday from 10:00 a.m. to 6:00 p.m.,

Saturday from 10:00 a.m. to 4:00 p.m., and closed on Sunday. There would be approximately three (3) employees.

RECOMMENDATION

Staff recommends approval of a Special Use Permit for a Planned Unit Development to allow a dentist office at 210 N. Bolingbrook Drive.

DISCUSSION

None

Motion Jacobs, second Rashid to close the public hearing.

AYES: Commissioners Jacobs, Rashid, Wright, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Rhoades, Runge, Campos

Motion carried, public hearing closed 8:04 p.m.

Motion Vice Chair Rennels, second Jacobs to accept the recommendation of Planning Staff.

AYES: Commissioners Jacobs, Rashid, Wright, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Rhoades, Runge, Campos

Motion carried.

Motion Jacobs, second Vice Chair Rennels to open the public hearing.

AYES: Commissioners Jacobs, Rashid, Wright, Runge, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Rhoades, Campos

Motion carried, public hearing opened at 8:05 p.m.

SPECIAL USE PERMIT FOR A PLANNED DEVELOPMENT TO ALLOW A GOLD BUYING BUSINESS, MIDWEST GOLD BUYERS, 198 S. BOLINGBROOK DRIVE APPLICANT: MARIHAS MUEHL, PROJECT NO.: 415.10

Planning and Zoning Administrator Nicole Knapp presented the request. The applicant Midwest Gold Buyers, Inc. is requesting approval of a Special Use Permit for a Planned Development to allow a jewelry/gold buying business at 198 S. Bolingbrook Drive. To the North of this location there is an International House of Pancakes, to the East Wal-Mart, to the South and West existing residences. The subject parcel comprises approximately of three tenths (0.3) acres, is zoned B-2 Community Retail, and consists of an approximate two thousand nine hundred fifty (2,950) square foot building formerly occupied by Kentucky Fried Chicken. Per the Zoning Ordinance, a Planned Development requires a Special Use Permit within the B-2 zoning district. Midwest Gold Buyers, Inc. is proposing to occupy the building in order to operate a jewelry/gold buying business. Per the applicant the majority of their business would be selling a variety of silver, gold, and costume jewelry to customers with a small fraction of gold

buying. Per the Application for Business License submitted by the applicant on or about April 1, 2010, the detailed profile of business and all services rendered at this location would be; jewelry for sale to the general public of multiple varieties and additionally purchase gold and other precious metals from on-site transactions. Per the Application for Certificate of Occupancy submitted by the applicant on April 22, 2010, the applicant certified that the premises would be used for the purpose of; sale and purchase of jewelry, gold and other precious metals. Included in the attached package prepared by the applicant, are examples of the interior floor layout, and photographs, which represent typical wall and or window signs displayed at MGB Jewelers and Cash For Gold locations in the area. Midwest Gold Buyers, Inc. would have approximately two to three (2-3) employees to cover the hours of operation. The hours of operation would be Monday through Friday 10:00 a.m. to 7:00 p.m., Saturday 10:00 a.m. to 5:00 p.m., and Sunday 11:00 a.m. to 3:00 p.m. Per the Zoning Ordinance, a jewelry store is listed as a Permitted Use; however, a gold buying business is not listed as either a Permitted Use of Special Use in the B-2 zoning district. Ms. Knapp stated that over the past year she personally had a minimum of ten (10) conversations with two (2) different employees at Midwest Gold Buyers, Inc., including at least two (2) conversations with one of the owners. She explained on each occasion that a gold buying business would not be a Permitted Use in the B-2 zoning district. During the initial conversations, the employees and/or owner stated that Midwest Gold Buyers was almost one hundred percent (100%) a gold buying business and that there would be very limited retail sales of jewelry if any at all. On November 5, 2009, a representative from Midwest Gold Buyers, Inc. contacted Ms. Knapp and stated that they were changing the way they operated their business and that they would be eighty percent (80%) retail and twenty percent (20%) gold buying. She stated at that time, as well as on several other instances, that the Village of Bolingbrook would require proof of retail sales (twelve months worth) from one of their existing locations that would operate similar to the proposed location in Bolingbrook, and was told several times that proof of retail sales could be provided. On February 8, 2010, when a representative from Midwest Gold Buyers, Inc. called to inquire about moving into the subject site Ms. Knapp reiterated once again that unless they could prove their business was eighty percent (80%) or more in retail sales and twenty percent (20%) or less in gold buying that they would not be a Permitted Use. The representative told her that providing proof of retail sales would be impossible because they do not use cash registers at any of their existing locations. On February 19, 2010, the owner, applied for a Certificate of Occupancy to operate a MGB Jewelers at 198 S. Bolingbrook Drive. The Certificate of Occupancy was denied and returned to the owner with a brief letter explaining the reasons for denial. On April 1, 2010, David Fitzgerald, Attorney for Midwest Gold Buyers, Inc., sent a letter to Ms. Knapp stating that his client fully intends to operate a jewelry store. Mr. Fitzgerald also provided a list of eight (8) locations operated by his client that currently engage in retail sales as an ongoing business. Ms. Knapp stated that on April 6, 2010, she visited five (5) of the eight (8) locations provided by the applicant's Attorney. She summarized her findings on a one (1) page memo dated April 9, 2010. Attached to the memo was a Midwest Gold Buyers flyer and a few pictures taken that same day during the visit, which Ms. Knapp wanted to read on record. She stated that the memo was addressed to the Mayor of Bolingbrook, copied to the Village Attorney Jim Boan, and the Director of Community Development, Dennis Kowalczyk. This memo stated her finding of that day. She stated that she visited five (5) Midwest Gold Buyers, Inc. locations that were

provided by Mr. Fitzgerald, Attorney, as specific locations with retail sales of jewelry to the general public. She visited the following locations: Willowbrook, Addison, Geneva, Elgin, and Schaumburg. Each location included a waiting area with approximately three to five (3-5) chairs, a child's toy area, refreshment table, and a television which played video footage of the gold buying process and gold parties. The locations also included a U-shaped sales desk area, which was made up of banquet tables covered with table clothes. Each sales desk area included one to two (1-2) computers, a fax machine, scales, and weighing containers. They also had a floor to ceiling curtain that expanded across the entire store width, which then blocked off part of the store. Each location depending on tenant size had an L-shaped jewelry display case of approximately twelve by five feet (12' x 5'). The display case consisted of costume jewelry that did not exceed twenty dollars (\$20.00) in value. The price of the costume jewelry was marked on place cards. Each location also included the same warning signs on the front door. The signs all read as follows: no cash on premises, payment by check only, gold is not stored on premises, twenty-four (24) hour surveillance, and remote monitored. The employees working at the Willowbrook and Elgin stores told Ms. Knapp that the costume jewelry is displayed purely to appease the municipality, so that they could be considered as retail, otherwise gold buying was not allowed in their towns. The employees at the Willowbrook store told Ms. Knapp that they had not sold a single piece of costume jewelry since Christmas, that the process takes ten to fifteen (10-15) minutes depending on the quantity of gold, that their price is based off the price of gold for the current day, they also stated that a person selling their gold should suggest for an additional twenty percent (20%) above the offered price of gold for the current day, that they send the all gold to a refinery, and that no gold is cleaned, repaired, or sold on site. The employees at the Willowbrook and Geneva stores also told Ms. Knapp that customers are paid at the time of sale with a business check and that the customer could go across the street to Chase bank and cash the check immediately, as most of the clients are looking for quick cash.

Ms. Knapp wanted to point out a few more things before continuing with her report. She stated that from the pictures taken on April 6, 2010 the banners on the windows in the Geneva and Willowbrook stores are easily readable from across the parking lot. The banners on the window in the Schaumburg store are readable from across Golf Road. The banner in the window on the Elgin store has neon tubing that says We Buy Gold. Ms. Knapp stated that for a business that is claiming that they recently changed the way they operate their business, they sure do put a lot of effort into advertising in their gold buying aspect of their operation at stores that the Village was told were good examples of retail jewelry operation.

On April 21, 2010, the owner, applied for another Certificate of Occupancy to operate a Midwest Gold Buyers, Inc. at the subject site, given the findings during the April 6, 2010, visit to other locations, the Certificate of Occupancy was denied and returned to the owner. Staff contacted other municipalities where Midwest Gold Buyers or MGB Jewelers operate to inquire proof of sales tax and none could be proven. Staff's speculations prior to April 2010 about Midwest Gold Buyers, Inc. or MGB Jewelers being a "cash for gold" business were confirmed following the site visits. Staff's opinion is that Midwest Gold Buyers, Inc. or MGB Jewelers is ninety-nine point nine percent

(99.9%) a gold buying business and that they offer costume jewelry in a small display case so they can appease the municipality with hopes to be treated as a jewelry store. Furthermore, per Section 8-103 of the Zoning Ordinance; *a Special Use Permit shall be granted only if evidence is presented to establish that the proposed building or use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of the public and will contribute to the general welfare of the neighborhood or community.* Staff believes that there is not enough evidence to establish that the proposed use, Midwest Gold Buyers, Inc. or MGB Jewelers is necessary or desirable service or facility that is in the best interest to the residents of Bolingbrook. In fact, Staff believes that Midwest Gold Buyers, Inc. or MGB Jewelers operation would have the potential to increase crime in the area.

RECOMMENDATION

Staff recommends denial of a Special Use Permit for a Planned Development to allow Midwest Gold Buyers, Inc./MGB Jewelers to occupy 198 S. Bolingbrook Drive.

DISCUSSION

Plan Commission Members questioned why there were no cash registers or sales records why the flyers that were mailed out to the residents showed the Bolingbrook location opening in March, how the process of buying gold worked, how the price of gold was checked, how employees determine what the starting price of the jewelry would be, the reason for warning signs on the doors, the number of attempted robberies, and if there is always someone standing in the parkway with a sign that says "we buy gold."

Ms. Knapp also questioned why the flyers and website focused one hundred percent (100%) on gold buying and nothing advertises what good quality jewelry is being sold. The website shows approximately fifty (50) locations in the Chicagoland area, yet only two (2) phone numbers. Ms. Knapp stated that she dialed every location, and she kept getting the same two (2) ladies at the same two (2) locations. She said she wanted to know why they don't have phone numbers for every location so customers can get a hold of the store since they are supposed to be a retail store.

Dan Fitzgerald, Attorney for Midwest Gold Buyers, Inc., Lisle, IL sworn. Mr. Fitzgerald stated that the business is family owned, has been in operation since 2007, and has experienced rapid growth in the Chicagoland area and even Wisconsin, that they have a professional appearance, that there is a large demand for the gold buying, and that they train to operate successfully. Mr. Fitzgerald also stated that other jewelers in town buy gold and other precious metals, that the subject site/building has been vacant for approximately 2 years, and that his client's business would only add to the community.

Chairman Cawthon commented that after Wal-Mart is finished with construction it will change the demand for the vacant building.

Mr. Fitzgerald stated that the flyers that were sent to the residents stating that the location in Bolingbrook would be opening in March were done because the owner had too much optimism. He stated that when they did the advertising for Midwest Gold Buyers, Inc. the owners were being hopeful on opening the store in Bolingbrook.

Midwest Gold Buyers, Inc. was moving toward the ability to go through as a permitted use to operate as a jewelry store.

Jacob Sadoff, Schaumburg, IL, sworn. Mr. Sadoff stated that all his locations have cash drawers, but not cash registers. He said that they do not have a heavy volume of cash so there is not a large need for cash. That they file yearly and not monthly or quarterly sales tax returns. Mr. Sadoff stated that the items sold get inspected, separated by karats, weighed in front of the customer, and then determine the amount that gets paid based on the weight and karats. He said the price of gold changes daily based on what the daily spot market value is of gold for that particular day. He said they have never experienced any robberies and that the signs on the doors are to make his employees and customers feel more comfortable. Mr. Sadoff said he did not think that he would take away the opportunity for the Village of Bolingbrook to get sales tax. He said his business would not generate a lot of sales tax because he is more of a service business. He explained what his business would do for the community by stating that he would employ three to five (3-5) local residents, that his average store puts out about two hundred and fifty thousand dollars (\$250,000) a year into the local economy, and that his business would draw more people to the community. He stated that he sells around two thousand to four thousand dollars (\$2,000-\$4,000) a month of merchandise, and that he pays his customers half of the value of what the gold is worth and keeps seventy-five percent (75%) as profit.

Commissioner Runge asked how he knows the person selling the gold is actually the owner of the gold and not something that was stolen.

Mr. Sadoff responded by saying that he works very closely with every municipality whether there are rules or whether the Police Department has any requests as far as a minimum hold periods for the items. He stated they are willing to comply and work with the Police Department. Some towns require a minimum of seven (7) day hold periods while other towns require a thirty (30) day hold period. In many towns there is a log that is kept at the store which is used to log in all of the items that were bought and this log gets submitted daily to the Police Department. Mr. Sadoff said that they collect very detailed personal information and that a form of identification as a picture ID is submitted for anyone selling gold. He stated they follow the US Patriot Act because of the fact that they buy a certain amount of gold. He said he believes by asking for all that information it will act as a deterrent for someone who may be trying to sell items that have been stolen. Mr. Fitzgerald added to Mr. Sadoff's comments by stating that the way Midwest Gold Buyers, Inc, operates is very similar to how other businesses in Bolingbrook operate.

Commissioner Wright asked how he would classify the store, as a jewelry store or as a gold recycling business.

Mr. Sadoff stated that his business as a whole is focused on buying gold. In certain cities in order to fit into certain classifications they had to be considered a jewelry store. The municipalities would tell them what had to be done to fit into the guidelines. He said he was not quite sure why Ms. Knapp was vilifying his business he said he would comply with all local regulations, and that it is rare for them to go through the Public

Hearing process and have never been denied a location or a business license. He states his business primarily does buy jewelry and it is a service which he thinks is extremely valuable right now, and it would definitely benefit the community.

Chairman Cawthon commented that Ms. Knapp has done a lot of work doing research and that the bottom line is that the Commission has a recommendation for denial to consider. He stated that his inclination is based on the evidence, based on what was presented to him, and based on what he was hearing in this meeting. He said there is nothing that overwhelms him or that says that the recommendation given should be any different than what it is. He stated that the Village has had a reputation of working closely with applicants because it is generally perceived as very pro-business. Looking at the businesses the Village of Bolingbrook has attracted, Ms. Knapp for one has been in the middle of all that.

Mr. Fitzgerald said he believed Ms. Knapp's recommendation and the whole history that was provided to the Commission or the vast majority of the information was based on the analysis and consideration of Midwest Gold Buyers, Inc. at the time when they were not talking about a Special Use Permit, in fact the entire time when she visited each of the locations the purpose of her visit was to evaluate whether or not Midwest Gold Buyers, Inc. could qualify as a "jewelry store". He said there is nothing in the Village code that defines what a jewelry store is. It is subjective in the light that the nature of this industry has changed. Twenty-five (25) years ago none of the jewelry stores that were in operation were reliant upon purchasing gold or other precious metals to survive, but now especially the local independently owned companies are realizing the majority of their income is because they are buying gold as opposed to selling diamonds. He said when the ordinance says a jewelry store is a permitted use his client was attempting to fit within the parameters of that and ultimately staff recommendation is that Midwest Gold Buyers, Inc. could not comply with that because they would not be able to sustain enough sales tax revenue to qualify as a jewelry store. He stated that after the focus stopped they came to the conclusion that perhaps the appropriate way this situation should be handled is to go through a Special Use Permit and from that point on the focus changes. He said he thought Ms. Knapp's recommendation was misguided because she is relying on impressions and conclusions on when they were considering a completely different question. The question has now changed and it is now a Special Use Permit. When the Commission evaluates the factors under Section 8-103 in its totality and to consider the nature of this business that is where this business would benefit the community. Mr. Fitzgerald stated that he believed there was no inpurable evidence that has been submitted by anyone to show that his clients business would have a risk on the increase of crime in the area.

Chairman Cawthon commented that the planners do not look at the businesses as a here and now, and this business is only three (3) years old, and in its current form probably only eighteen (18) months and a lot of it is mockery economic factors driving such a big demand for gold, but gold also has collapsed and speculatively speaking when gold does collapse what will that do to this business. A part of the valuation of gold today is related to what inflation has done. He also stated that he has seen a lot of growth in this community and a lot of it is lead by our Village political and economic leadership and the work falls to the staff.

Motion Vice Chair Rennels, second Runge to close the public hearing.

AYES: Commissioners Jacobs, Rashid, Runge, Wright, Vice Chair Rennels,
Chairman Cawthon

NAYS: None

ABSENT: Commissioners Rhoades, Campos

Motion carried, public hearing closed 9:18 p.m.

Motion Vice Chair Rennels, second Wright to accept the recommendation of Planning Staff.

AYES: Commissioners Jacobs, Rashid, Runge, Wright, Vice Chair Rennels,
Chairman Cawthon

NAYS: None

ABSENT: Commissioners Rhoades, Campos

Motion carried.

NEW BUSINESS

None

OLD BUSINESS

None

APPROVAL OF PLAN COMMISSION REPORTS

Motion Jacobs, second Rashid to accept Plan Commission reports:

PC 10.16 Approval of a Special Use Permit for a Massage Therapy Establishment.
Kneaded By Jeannie, 400 N. Schmidt Road. Applicant: Jeannie
Claycomb. Project No.: 412.10

PC 10.17 Approval of a Special Use Permit for a Planned Unit Development.
Matthew's Tobacco, 491 S. Weber Road. Applicant: Matthew Matta.
Project No.: 414.10

PC 10.18 Approval of a Special Use Permit for a Planned Unit Development with
Variances. L.M.R Home Health Care, 167 W. Boughton Road. Applicant:
C.M. Cea, Architect LTD. Project No.: 413.10

Voice Vote: Unanimous.

Motion carried.

CITIZENS TO BE HEARD

None

CHAIR'S REPORT

None

COMMISSIONER'S REPORT

None

PLANNING DEPARTMENT REPORT

None

ADJOURNMENT

Motion Vice Chair Rennels, second Runge to adjourn.

Voice Vote: Unanimous

Motion carried.

Chairman Cawthon adjourned the meeting at 9:20 p.m.

CHAIRMAN

APPROVED

SECRETARY