

CITY OF PALM BEACH GARDENS
DEVELOPMENT APPLICATION

CUMI-16-09-000044

Planning and Zoning Department
CITY OF PALM BEACH GARDENS
10500 North Military Trail
Palm Beach Gardens, FL 33410
(561) 799-4243 Fax (561) 799-4281

Request:

- | | |
|--------------------------------------------------------------|-----------------------------------------------------|
| <input type="checkbox"/> Planned Community Development (PCD) | <input type="checkbox"/> Annexation |
| <input type="checkbox"/> Planned Unit Development (PUD) | <input type="checkbox"/> Rezoning |
| <input type="checkbox"/> Amendment to PCD, PUD or Site Plan | <input type="checkbox"/> Site Plan Review |
| <input checked="" type="checkbox"/> Conditional Use | <input type="checkbox"/> Concurrency Certificate |
| <input type="checkbox"/> Amendment to the Comprehensive Plan | <input type="checkbox"/> Time Extension |
| <input type="checkbox"/> Administrative Approval | <input type="checkbox"/> Miscellaneous |
| <input type="checkbox"/> Administrative Appeal | <input type="checkbox"/> Other <input type="text"/> |
- Date Submitted:

Project Name: PGA CINEMA VI

Owner: PALM BEACH GARDENS PLAZA LLC

Applicant (if not Owner): ARCTIC HOLDINGS, LLC

Applicant's Address: 4076 PGA BLVD, PBG, FL 33410 Telephone No. 561 691 9918

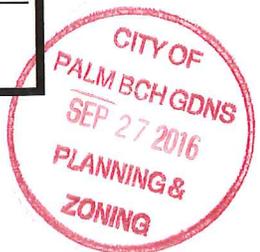
Agent: WILLIAM ROGERS

Contact Person: WILLIAM ROGERS E-Mail: blk930doc@yahoo.com

Agent's Mailing Address: 3785 NE 209 Terr, Aventura, FL 33180

Agent's Telephone Number: 786 556 7753

FOR OFFICE USE ONLY	
Petition Number: _____	Date & Time Received: _____
<u>Fees Received</u>	
Application \$ _____	Engineering \$ _____
Receipt Number: _____	



Architect: _____

Engineer: _____

Planner: _____

Landscape Architect: _____

Site Information:

Note: Petitioner shall submit electronic digital files of approved projects. See attachment for details.

General Location: Loehmann's Plaza Shopping Center

Address: 4128 PGA BLVD, PALM BEACH GARDENS, FL 33410

Section: _____ Township: _____ Range: _____

Property Control Number(s): 52-42-42-01-00-000-5010

Acreage: _____ Current Zoning: _____ Requested Zoning: _____

Flood Zone _____ Base Flood Elevation (BFE) – to be indicated on site plan _____

Current Comprehensive Plan Land Use Designation: _____

Existing Land Use: MOVIE THEATER Requested Land Use: EXISTING & LIVE ENTERTAINME

Proposed Use(s) i.e. hotel, single family residence, etc.: _____

Proposed Square Footage by Use: SAME

Proposed Number and Type of Dwelling Unit(s) i.e. single family, multifamily, etc. (if applicable):

N/A

Justification

Information concerning all requests (attach additional sheets if needed.)
{Section 78-46, Application Procedures, Land Development Regulations.}

1. Explain the nature of the request: SEE ATTACHED

2. What will be the impact of the proposed change on the surrounding area?

THERE IS NO ANTICIPATED CHANGE IMPACTING THE SURROUNDING AREA

3. Describe how the rezoning request complies with the City's Vision Plan and the following elements of the City's Comprehensive Plan - Future Land Use, Transportation, Housing, Infrastructure, Coastal Management, Conservations, Recreation and Open space, Intergovernmental Coordination and Capital Improvement.

SEE ATTACHED

4. How does the proposed project comply with City requirements for preservation of natural resources and native vegetation (Section 78-301, Land Development Regulations)?

THERE WILL BE NO EXTERIOR CHANGES TO THE EXISTING BUILDING OR SHOPPING CENTER.

5. How will the proposed project comply with City requirements for Art in Public Places (Chapter 78-261, Land Development Regulations)?

SEE ATTACHED

6. Has project received concurrency certification?

Date Received:

Legal Description of the Subject Property

(Attach additional sheets if needed)

Or see attached deed for legal description.

Location

The subject property is located approximately 1/4 mile(s) from the intersection of RCA BLVD
AND PGA BLVD, on the north, east, south, west side of _____

(street/road).

Statement of Ownership and Designation of Authorized Agent

Before me, the undersigned authority, personally appeared Gary Bazydlo
who, being by me first duly sworn, on oath deposed and says:

1. That he/she is the fee simple title owner of the property described in the attached Legal Description.
2. That he/she is requesting the foregoing modification of use in the City of Palm Beach Gardens, Florida.
3. That he/she has appointed William Rogers to act as authorized agent on his/her behalf to accomplish the above project.

Name of Owner: Palm Beach Gardens Plaza, LLC
By: KIMCO PALM BEACH GARDENS 1647, INC., ITS SOLE MEMBER

[Handwritten Signature]
Signature of Owner

By: Name/Title Gary U. Bazydlo
Vice President
West Palm Beach, FL 33410
City, State, Zip Code

I-95 @ P6A Blvd.
Street Address

P. O. Box

City, State, Zip Code

704-367-0131
Telephone Number

704-367-0629
Fax Number

gbazydlo@kimcorealty.com
E-mail Address

Sworn and subscribed before me this 16th day of September, 2016.

Tracy Zart
Notary Public

My Commission expires:
9/27/17



Applicant's Certification

I/We affirm and certify that I/we understand and will comply with the land development regulations of the City of Palm Beach Gardens, Florida. I We further certify that the statements or diagrams made on any paper or plans submitted here with are true to the best of my/our knowledge and belief. Further, I/we understand that this application, attachments, and application filing fees become a part of the official records of the City of Palm Beach Gardens, Florida, and are not returnable.

Applicant is:



Signature of Applicant

Owner

ARCTIC HOLDINGS, LLC

Print Name of Applicant

Optionee

4076 PGA BLVD

Street Address

Lessee

PALM BEACH GARDENS, FL 33410

City, State, Zip Code

Agent

561 691 9918

Telephone Number

Contract Purchaser

Fax Number

blk930doc@yahoo.com

E-Mail Address

PRINCIPAL AGENT/ACCOUNT LIABILITY

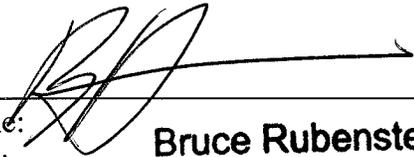
Palm Beach Gardens Plaza, LLC, a Delaware limited liability company (“Owner”) is the current owner of the property commonly known as Palm Beach Gardens shopping center located in West Palm Beach, Florida.

Kimco Palm Beach Gardens 1649, Inc., a Delaware corporation (“Corporation”) is the managing member of Owner.

Please be advised that Gary J. Bazylo, as a Vice President of the Corporation, is hereby authorized as an agent to sign and deliver any and all permit applications on behalf of Palm Beach Gardens Plaza, LLC.

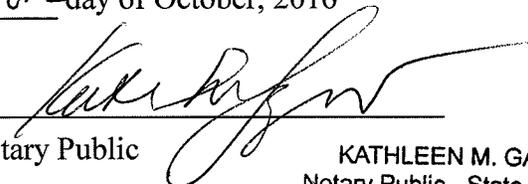
PALM BEACH GARDENS PLAZA, LLC,
a Delaware limited liability company

By: Kimco Palm Beach Gardens 1649, Inc.,
Managing Member

By: 
Name: _____
Title: **Bruce Rubenstein**
Executive Vice President & Secretary

Entity FEIN: 27-0283344
IRS Reporting Entity: Kimco Realty Corporation
IRS Taxpayer ID No.: 13-2744380

Sworn to before me this
20th day of October, 2016



Notary Public

KATHLEEN M. GAZERRO
Notary Public - State of New York
No. 01GA4721128
Qualified in Suffolk County
Certificate on File in Nassau County
My Commission Expires 4/30/20 18



Palm Beach Gardens Planning and Zoning Department
10500 North Military Trail, Palm Beach Gardens, FL 33410
561-799-4230

Permit # _____

Financial Responsibility Form

The owner understands that all City-incurred professional fees and expenses associated with the processing of this application request are ultimately the responsibility of the owner. A security deposit shall be deposited in an interest-bearing account with any accrued interest to be retained by the City of Palm Beach Gardens.

The owner and/or designee shall be invoiced on a monthly basis for professional fees such as, but not limited to, consultant engineering services, legal services, advertising costs, and/or any other costs attributable to the processing of the permit for which the City incurred during the previous month. The owner and/or designee shall reimburse the City within thirty (30) days from date of invoice. If payment is not received, the City may utilize the security deposit for re-imbursement purposes. All activities related to the pending permit(s) will cease until any outstanding invoices are paid.

The owner/designee further understands that transfer of this responsibility shall require a completed form, signed and notarized by the responsible party, and delivered to the City Planning and Zoning Department if the name and/or address of the responsible party changes at anytime during the application review process.

ST. KIMCO PALM BEACH GARDENS 1649, INC., ITS SOLE MEMBER

[Signature]
Owner signature

09-16-16
Date

Palm Beach Gardens Plaza, LLC
Owner printed name

Property Control Number

DESIGNEE/BILL TO:

William Rogers

Arctic Holdings, LLC

4076 PGA Blvd., Palm Beach Gardens, FL 33410

[Signature]
Designee Acceptance Signature

NOTARY ACKNOWLEDGEMENT

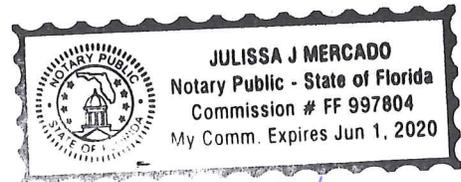
STATE OF Florida

COUNTY OF Miami-Dade

I hereby certify that the foregoing instrument was acknowledged before me this 27th day of September, 2016, by William L Rogers. He or she is personally known to me or has produced FL ID as identification.

[Signature]
Notary public signature

Julissa J Mercado
Printed name



State of _____ at-large

My Commission expires: 6/1/2020

DESCRIPTION OF REQUEST

This request is made in order to permit the showing of live entertainment at the existing cinema multiplex located in the shopping center formerly known as Loehmann's Plaza. The theater presently functions as a movie theater, the use for which it has been permitted since approximately 1982. The live entertainment which is the subject of this request will consist of plays, individual comedians, and musicians in small groups. It is anticipated that the hours of operation for these events will be from 7:00 PM to 11:00 PM, and will not involve the use of hazardous substances, fire, water, or pyrotechnics; nor will the subject matter include "adult entertainment" or sexually suggestive performances. The intended use will be in addition to the present use as a movie theater which will continue. Because the live shows will be presented to audiences in the existing theaters utilizing existing seating, there will be no external impact on the surrounding community. The theater building is a free standing structure, is noise insulated, with ample parking. There will be no additional utility needs, no additional loading requirements, and no resulting sound outside the building affecting neighboring or surrounding properties.

Arctic Holdings, LLC
Conditional Use Application
CUMJ-16-09-000044-Loehmann's Plaza-Request for a Major Conditional Use to Allow Live Theater and Live Entertainment Use

SUPPLEMENT TO APPLICATION

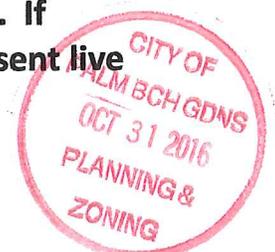
This supplement to the above referenced application is submitted for the purpose of clarifying compliance by the Applicant with the criteria listed in Section 78-52(d)(1)-(13) of the City's code as follows:

(d) *Criteria.* In addition to the application requirements listed above, a development order application for a minor or major conditional use approval shall demonstrate compliance with the criteria listed below.

- (1) Comprehensive plan. The proposed use is consistent with the comprehensive plan.

The Comprehensive Plan under Goal 7.1 has as its stated objective the promotion of recreation activities inclusive of "...personal health, entertainment and constructive use of leisure time." The Plan further adopts a policy of encouraging "cultural events." Policy 7.1.4.11.

The building involved is a free standing steel, cinderblock and concrete structure located on the end of the Loehmann's Shopping Center and separated from the adjacent building in the shopping center by a courtyard. There are no immediately adjacent residential neighborhoods. The theater building is a noise insulated purpose built movie theater complex which is presently showing movies, as it has since the 1980's. Allowing the showing of live entertainment will have no additional impact on neighboring properties as there is more than ample parking for the theater, there will be no additional utility needs, no additional loading requirements, audience numbers will not exceed existing seating capacity which has been approved, and there will be no resulting sound audible outside the building. In sum there will be no discernable change outside the building negatively affecting nearby businesses or individuals. If permitted by the granting of this application, the theater will present live



entertainment inclusive of music, plays and comedy constituting a cultural enhancement to the community.

(2) Chapter requirements. The proposed use is consistent with all applicable requirements of this chapter.

The proposed Major Conditional Use is consistent with all applicable requirements. It essentially provides enhanced cultural offerings to the residents of the city with absolutely no negative impacts or burdens on the City or neighboring properties.

(3) Standards. The proposed use is consistent with the standards for such use as provided in Section 78-159.

The proposed use is allowed by Major Conditional Use application.

(4) Public welfare. The proposed use provides for the public health, safety, and welfare by:

a. Providing for a safe and effective means of pedestrian access;

The proposed use does not alter the existing means of pedestrian access.

b. Providing for a safe and effective means of vehicular ingress and egress:

The proposed use does not alter the existing vehicular ingress and egress; access is provided by two entrances to the shopping center on RCA Boulevard.

c. Providing for an adequate roadway system adjacent to and in front of the site;

The property is adjacent to PGA Blvd. and has access from RCA Blvd..

d. Providing for safe and efficient onsite traffic circulation, parking, and overall control; and

The proposed use provides for the same safe and efficient traffic circulation successfully employed for the past thirty years.

e. Providing adequate access for public safety purposes, including fire and police protection.

See answer to b, c, and d. above.

(5) Screening and buffering. The proposed use utilizes such techniques as landscaping, screening, buffering, site or building design, or business operation procedures to mitigate impacts on surrounding properties, including such impacts as :

- a. Noise;
- b. Glare;
- c. Odor;
- d. Ground, wall, or roof mounted mechanical equipment;
- e. Perimeter, interior and security lighting;
- f. Signs;
- g. Waste disposal and recycling;
- h. Outdoor storage of merchandise and vehicles;
- i. Visual impact; and
- j. Hours of operation

The theater will continue to operate as a theater with no anticipated changes in operation or environmental impact in any of the above categories.

(6) Utilities. The proposed use minimizes or eliminates the impact of utility installation, including underground and overhead utilities, on adjacent properties.

There will be no changes in utilities. The proposed use will have no impact on utilities located on adjacent properties.

(7) Dimensional standards. The proposed use meets or exceeds all dimensional requirements required by the chapter.

The proposed use does not involve any change in dimensions of the building and thus the proposed use meets or exceeds all dimensional requirements.

(8) Neighborhood plans. The proposed use is consistent with the goals, objectives, policies and standards of neighborhood plans.

There are no applicable neighborhood plans for this shopping center. The proposed use is intended to provide cultural enhancement for the entire city and is therefore consistent with its goals and objectives.

(9) Compatibility. The overall compatibility of the proposed development with adjacent and area uses, and character of area development.

The theater presently shows film entertainment. Permitting the addition in part of live entertainment will have no foreseeable impact on adjacent or area uses and can only serve to enhance the character of area development.

(10) Patterns of development. The proposed use will result in logical, timely, and orderly development patterns.

See answers to paragraphs (8) and (9) above.

(11) Purpose and intent. The proposed use will be in harmony with the general purpose and intent of this chapter and the goals, objectives, and policies of the city.

It is the goal, objective and policy of the city to improve recreation and entertainment opportunities for residents of the city. Goal 7.1, Recreation and Open Space Element. The proposed use is compatible with and advances this goal.

(12) Adverse impact. The design of the proposed use and structures will minimize any adverse visual impacts or impacts caused by the intensity of the use.

- a) **Design of proposed use. The design will be unchanged.**
- b) **Impacts caused by intensity of use. The theater has been approved for its existing seating capacity which will not be increased. Therefore there can be no impact caused by the intensity of the use because the anticipated use cannot be more intense than the use which is presently approved.**

(13) Environmental impact. The design of the proposed use minimizes any adverse impacts that may be created, including impacts on environmental and natural resources including air, water, stormwater management, wildlife, vegetation, and wetlands.

The proposed use does not alter in any way the design of the building and thus the stated potential impacts are not applicable and not relevant to this application .

Respectfully submitted,



William Rogers, COO
Arctic Holdings, LLC