

Publix wins legal battle over new store in Cutler Bay

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The Shoppes at Cutler Bay development may have the green light to move forward after a lawsuit against the town, the project's developer and Publix Super Markets was dismissed last week.

The 11-acre mixed-use development, slated for the east side of Old Cutler Road between 208th and 212th streets, was OK'd by Cutler Bay in May 2013, but put on hold after Realty Associates Fund IX, LP alleged that the approval was not cohesive with the town's comprehensive plans. Judge Norma Lindsey dismissed the suit against Cutler Bay, Publix Super Markets and GCF Investment on Aug. 28.



Realty Associates Funds owns a Publix at 20424 Old Cutler Road, less than a mile from where the new development is expected to break ground, and has filed a separate lawsuit against the grocer about its lease agreement, which going to trial next summer, said attorney John Shubin, of Shubin & Bass, who is representing the company.

Shubin says Publix wants to vacate its current Cutler Bay space and move to the new development, but continue to pay rent to keep the old space empty.

"We remain convinced that the town's actions in approving a big-box Publix violates the requirements of its comprehensive plan for a development," he said of the lawsuit that was dismissed. "We respect, but are disappointed with, the court's ruling, and intend on appealing it."

Attorney John Quick, who represented Cutler Bay in the lawsuit along with Chad Friedman and Laura Wendell, is hopeful that the project can move forward.

"If the land owner decides to appeal the ruling, Publix, the developer and the town will have to evaluate whether they can break ground or not," he said.

Quick said the Shoppes at Cutler Bay would revitalize the town, and officials have been working on getting a development like this underway since its incorporation in 2005.

"This has tremendous impact for the town of Cutler Bay, reassuring the citizens that the officials have their best interests in mind, and providing a precedent for additional new building that will help the community," he said.

The Shoppes at Cutler Bay is expected to include a Publix, four retail buildings, banking facilities and restaurants.