

## Roswell Sued Over Holcomb Rezoning

Roswell – A developer filed a lawsuit Oct. 13 against Roswell saying the city council's decision to enforce the current zoning on a 9.7-acre tract on Holcomb Bridge Road had rendered it "economically unviable."

Ramco Gerhsenson, acting under the local corporation Ramco Roswell LLC, filed the lawsuit on the property at 2825 Holcomb Bridge Road, after the city turned down a proposal to rezone the property as commercial for a carwash, a dry cleaners and a daycare center.

Roswell denied the rezoning, saying it wanted to preserve the office zoning in front of Horseshoe Bend, a 1,300-home golf community on Holcomb Bridge.

Ramco had pleaded that the property between Steeplechase Drive and Nesbitt Ferry Road has been marketed as it is zoned, and only one project materialized. That came in 2005, when a bank and an office building were contemplated for a total of 54,000 square feet. That project folded when the bank withdrew.

Since then, other efforts to market the property as office professional (O-P) went nowhere. Ramco brought a proposal before the city to rezone the property as commercial. In return, Ramco offered to double the amount of property put in a conservation easement from three acres to six acres and reduce the development density of the project to 19,000 square feet.

The city council voted unanimously to deny the rezoning. At the time, Councilman Rich Dippolito said, "We have to look at the property values and the quality of life of the whole community."

But attorney **Richard L. Robbins**, representing Ramco, said the decision to impose the current office professional zoning ignores the reality that Holcomb Bridge has become a commercial corridor.

In documents associated with the lawsuit, it states "Roswell is over-saturated with existing office and professional buildings, which remain empty and un-leased. At the end of the fourth quarter of 2009, the vacancy rate for such buildings stood at 19 percent, a 0.68 percent increase from the previous quarter."

The lawsuit noted there were no new office or professional buildings under construction anywhere in the Roswell-Alpharetta area.

"I don't see how Roswell's position [on the rezoning] given the lack of marketability of office-professional on Holcomb Bridge Road, and the great amount of support from the local residents," Robbins said.

Robbins pointed out the Ramco property has a large conservation easement, has remained undeveloped for six years under current zoning and is surrounded on three sides by property zoned commercial (C-3). Across the street is Holcomb Corners shopping center, with TJ's Sports Bar and Grill and the newly opened Studio Movie Grill.

On one adjacent side is Pike's Family Nursery, and on the other is Extra Space Storage, a personal storage business.

The public support Robbins referred to came from the small community most affected by the proposed development. Those homeowners liked the idea of doubling the amount of conservation acreage between them and the development on Holcomb Bridge.

However, the Horseshoe Bend Homeowner Association vigorously opposed the project and lobbied hard to keep the office-professional zoning in place.

Roswell Mayor Jere Wood said the city does not comment on matters under litigation. Robbins said he hopes the city and his client will sit down and negotiate the issue.

"I was surprised to see the denial, and unfortunately, there is no choice but to challenge it in court," Robbins said. "Ramco worked very, very hard to come up with a project that made a tremendous amount of sense for this property. I have had other clients try to develop office on Holcomb Bridge Road without success.

"The city can do all it wants to say it wants this or that [use] on a particular piece of property, but the market always governs. The market will always tell you what it wants – that has been my experience in these matters," Robbins said.

Robbins said this is not a case of a developer trying to push through some high-density development. It is the opposite, a rather lower-density project that puts land into conservation and lowers the overall density of the project.

"I just didn't get it. And I don't think a judge is going to get it either," Robbins said.