

## Judge Says East Roswell Rezoning Should Be Granted

*The Atlanta Journal-Constitution*

Wednesday, January 19, 2011

By Ralph Ellis

Thanks to a Fulton County Superior Court judge's decision, a developer will get to build a contested commercial project in East Roswell.

But the leader of a large homeowners association that opposed the project is unhappy the Roswell City Council is not battling for them in court.

"We're all pretty frustrated and disappointed with the city council's decision," said Michael Brennan, president of the 1,275-home Horseshoe Bend Community Association. "When faced with a lawsuit, the city didn't fight for its residents."

In September, the city council voted 5-0 to deny Ramco-Gershenson Inc.'s request to rezone land near the Horseshoe Bend entrance on Holcomb Bridge Road to build a car wash, dry cleaner and day care center. Large numbers of subdivision residents attended meetings and applauded the council's decision.

Ramco-Gershenson filed a lawsuit saying the denial was unconstitutional. Judge Melvin K. Westmoreland signed an order saying the developer was "entitled to the declaratory relief they seek in this rezoning matter."

City officials say a court fight would be pointless.

"If we oppose this we are very likely not only going to lose the case but incur substantial attorney fees and damages," Mayor Jere Wood said Tuesday.

City Attorney David Davidson said Roswell probably won't have to pay damages. The council voted to initiate a settlement that will allow the rezoning from office professional to highway commercial. The request will go back through the planning commission and city council.

Because of a settlement in a 2004 lawsuit with the city, Ramco-Gershenson first planned to build eight office buildings and a bank. But the deal fell apart and the company sought the rezoning. In the latest plan, all but 3.5 acres of the 9.7-acre tract would be left as green space.

**Richard Robbins**, the developer's lawyer, said his client is happy the project is back on track.

"This is a good development for the city," he said.

But Brennan said a majority of Horseshoe Bend residents don't feel that way.

"We didn't have anybody stand up and say, 'We want a car wash near our community,'" he said.