

Exhibit D  
Resolution for Denial of Rezone to Remove  
B-8 Overlay

Omni Resources, LLC  
(Corral de Tierra Village)  
PLN110077

Board of Supervisors  
January 10, 2012

## DRAFT RESOLUTION

### Before the Board of Supervisors of the County of Monterey, State of California

In the matter of the application of:

**OMNI RESOURCES INC. (PLN020344)**

**RESOLUTION NO. \_\_\_\_\_**

Resolution by the Monterey County Board of  
Supervisors:

Denying the Request to remove the B-8 Zoning  
Overlay from the property at the corner of Corral  
de Tierra Road and Hwy 68

(PLN020344, OMNI RESOURCES LLC.)

**The request to remove B-8 Zoning Overlay District (PLN020344) from the property came on for public hearing before the Monterey County Board of Supervisors on March 29, April 12, May 17, July 12, August 30, October 4, November 8, 2011, and January 10, 2012. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and makes the following action:**

#### FINDINGS

- 1 FINDING:** The applicant requests that the County remove the B-8 Zoning Overlay from the LC-B-8-D (Light Commercial with Building Site Regulation and Design Control overlay) zoning on the property. The resulting zoning would be Light Commercial with a Design Control Overlay

**EVIDENCE:** The application and file for PLN020344.
- 2 FINDING:** Purpose of B-8 Zoning

**EVIDENCE:** a) The "B-8" District was adopted by the Board of Supervisors on November 24, 1992 (Ordinance No. 03647) for certain properties in the El Toro Creek, Corral de Tierra and Calera Canyon sub basins of the Toro Area, including the subject site. The "B-8" District was adopted because of severe water constraints in the area covered by the District identified in the *Hydrogeologic Update: El Toro Area, Monterey, California* Report prepared by Staal, Garner and Dunne.

b) In adopting the "B-8" District the Board of Supervisors found that additional development or intensification of land use in the area placed under the "B-8" Overlay District would be detrimental to the health, safety and welfare of the residents of the area.
- 3 FINDING:** The Project as proposed by the applicant is consistent with the B-8 zoning, and the B-8 zoning provides an appropriate level of protection for the Commercial site at the corner of Hwy 68 and Corral de Tierra.

**EVIDENCE:** a) On September 7, 1993 the Board of Supervisors adopted Ordinance No. 3704 which amended the original provisions relative to development of

commercial uses, as stated in Section 21.42.030 H (1) to state that the "B-8" District does not affect the "*construction or expansion of commercial uses where such construction or expansion can be found to not adversely affect the constraints which caused the 'B-8' district to be applied to the property.*"

- b) A 99,970 square foot retail center has been designed for the subject site using a water balance approach to satisfy the requirements of the B-8 Zoning. This water balance will direct storm water runoff into the groundwater through infiltration chambers. There will be a cap on the amount of water used on the site. The cap is related to how much water can be directed to the groundwater providing a net benefit of water to the groundwater basin. This approach will allow construction of a commercial center on this site without adversely affecting the groundwater constraints of the area.

- 3      **FINDING:**      No rationale for removal of the B-8 District.  
      **EVIDENCE:**      No evidence has been submitted that supports changing the finding of Geosyntec that the area groundwater is in overdraft. Removing the B-8 would require a finding that the constraints existing at the time of the adoption of the B-8 no longer exist. In this particular case, all evidence including recent well logs show that the groundwater levels continue to decline (Page 220 of the DEIR). The circumstances under which the B-8 was imposed still exist.
  
- 4.      **FINDING:**      CEQA – Denial of a project is statutorily exempt from CEQA. In addition, an EIR was prepared that analyzed the whole of the project proposed by the applicant, including this rezone proposal.  
      **EVIDENCE:** a)      Public Resources Code section 21080(b)(5)  
                  b)      EIR prepared for Corral de Tierra Neighborhood Retail Village (SCH#: 2007091137). Prior to taking action on this rezone, the Board certified the EIR.
  
- 5.      **FINDING:**      The Board of Supervisors has considered the Planning Commission recommendation.  
      **EVIDENCE:** a)      At a duly noticed Public Hearing on December 8, 2011, January 12 and January 26, 2011, the Planning Commission considered the applicant's request to remove the B-8 zoning from the property.  
                  b)      The Planning Commission recommended denial of the rezoning request (Resolution No. 11-0048.)

**DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Board of Supervisors does hereby:

Deny the Request to remove the B-8 Zoning Overlay from the property at the corner of Corral de Tierra Road and Hwy 68.

**PASSED AND ADOPTED** this 10<sup>th</sup> day of January, 2012 upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book \_\_\_\_\_ for the meeting on \_\_\_\_\_.

Dated:

\_\_\_\_\_  
Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California