

CITY OF CARMEL-BY-THE-SEA  
PLANNING COMMISSION

PLANNING COMMISSION RESOLUTION NO. 2020-XXX-PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA APPROVING  
A USE PERMIT AMENDMENT (UP 20-314, DAMETRA CAFE) TO EXTEND THE HOURS OF OPERATION  
10 11 PM FOR A FULL-LINE RESTAURANT LOCATED AT THE SOUTHEAST CORNER OF OCEAN  
AVENUE AND LINCOLN STREET  
(APN 010-147-013)

**WHEREAS**, Lizette Fiallo (“Applicant”) submitted an application requesting approval of a Use Permit Amendment “(UP 20-134, Dametra Café)” described herein (“Application”); and

**WHEREAS**, the application has been submitted for the property located at the southeast corner of Ocean Avenue and Lincoln Street in the Central Commercial (CC) Zoning District (Block 75, Lot 8); and

**WHEREAS**, the Applicant is requesting to extend the hours of operation for an existing full-line restaurant to 11 p.m. with all clean-up/closing operations completed by midnight; and

**WHEREAS**, the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, “CEQA”), together with State Guidelines (14 California Code Regulations §§ 15000, *et seq.*, the “CEQA Guidelines”) and City Environmental Regulations (CMC 17.60) require that certain projects be reviewed for environmental impacts and that environmental documents be prepared; and

**WHEREAS**, pursuant to CEQA regulations, the Application is categorically exempt under Section 15301 (Existing Facilities); and

**WHEREAS**, notice of the public hearing was published in compliance with State law (California Government Code 65091), as well as hand-delivery of the public notice by the Applicant to each property owner within a 100-foot radius of the project site indicating the date and time of the public hearing; and

**WHEREAS**, on November 10, 2020 the Planning Commission held a public hearing to receive public testimony regarding the Application, including without limitation, information provided to the Planning Commission by City staff and public testimony on the application; and

**WHEREAS**, this Resolution and its findings are made based upon evidence presented to the Commission at the November 10, 2020 hearing date including, without limitation, the staff report submitted by the Community Planning and Building Department; and

**WHEREAS**, the Planning Commission did hear and consider all said reports, recommendations and testimony herein above set forth and used their independent judgement to evaluate the project; and

**WHEREAS**, the facts set forth in the recitals are true and correct and are incorporated herein by reference.

**NOW THEREFORE, BE IT RESOLVED**, that the Planning Commission of the City of Carmel-By-The-Sea does hereby make the following findings and determinations regarding the Use Permit Amendment:

1. On March 12, 2020 a local state of emergency was proclaimed by the Director of Emergency Services, Chip Rerig.
2. On March 19, 2020, Governor Gavin Newsom issued a shelter in place order for the entire State of California.
3. On July 7, 2020, the State of California issued a statewide order closing all bars, pubs, brewpubs and breweries and restricting indoor operations for restaurants and wine tasting rooms.
4. On July 29, 2020, the State of California updated the COVID-19 Industry Guidance for restaurants providing outdoor dining, take-out, drive-thru and delivery.
5. On August 28, 2020 the State of California Public Health Officer issued an order updating the framework for reopening, which is known as California's Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe. Based on this Plan, indoor dining at restaurants remains prohibited in Monterey County.
6. The closure of dine-in services and the requirement to implement social distancing protocols has significantly reduced the number of seats that can be accommodated at local restaurants.
7. Impacts to the local economy and workforce have been severe as a result of the global Coronavirus pandemic and warrant some flexibility to assist businesses in remaining viable and the workforce employed while preserving and protecting the health, safety and general welfare of the community.
8. Due to a prolonged period of restrictions affecting restaurant operations and their inability to offer dine-in services temporary provisions are being implemented to allow restaurants to continue operations.
9. The Use Permit Amendment will not be injurious to public health, safety or welfare.

10. The Use Permit Amendment will be compatible with surrounding land uses and will not conflict with the purpose established for the district within which it will be located.

11. The Use Permit Amendment will not generate adverse impacts affecting health, safety, or welfare of neighboring properties or uses.

**BE IT FURTHER RESOLVED**, that the Planning Commission of the City of Carmel-By-The-Sea does hereby **APPROVE** a Use Permit Amendment (UP 20-314, Dametra Café) to extend the hours of operation to 11 p.m. for a full-line restaurant located at the southeast corner of Ocean Avenue and Lincoln Street in the Central Commercial (CC) Zoning District (APN 010-147-013), subject to the following conditions of approval:

CONDITIONS OF APPROVAL		
No.		
1.	<b>Authorization.</b> Approval of this Use Permit Amendment (UP 20-314, Dametra Café) extends the hours of operation for a full-line restaurant to 11 p.m. with the last customer being seated at 11 p.m. and all clean-up/closing operations completed by midnight.	✓
2.	<b>Hours of Operation.</b> The permitted hours of operation shall be 7 a.m. to 11 p.m. seven days a week. All clean-up/closing operations must be completed by midnight. There shall be no live music between 11 p.m. and midnight.	✓
3.	<b>Revocation.</b> This approval shall be subject to revocation in accordance with CMC Section 17.66.050 (Revocation).	✓
4.	<b>Safety Protocols.</b> It is the Applicant's responsibility to be informed of, and full comply with, all industry guidance for food and drink establishments published by all applicable agencies, including but not limited to, the Center for Disease Control (CDC), State of California Governor's Office, California Department of Public Health, Alcoholic Beverage Control (ABC), Monterey County Health Office, and Monterey Fire Department, as amended, throughout the term of the Permit. Any unsafe or unsanitary condition shall be corrected immediately upon request by the City.	✓
5.	<b>Indemnification.</b> The applicant agrees, at his or her sole expense, to defend, indemnify, and hold harmless the City, its public officials, officers, employees, and assigns, from any liability; and shall reimburse the City for any expense incurred, resulting from, or in connection with any project approvals. This includes any appeal, claim, suit, or other legal proceeding, to attack, set aside, void, or annul any project approval. The City shall promptly notify the applicant of any legal proceeding, and shall cooperate fully in the defense. The City may, at its sole discretion, participate in any such legal action, but participation shall not relieve the applicant of any obligation under this condition. Should any party bring any legal action in connection with this project, the Superior Court of the County of	✓

	Monterey, California, shall be the situs and have jurisdiction for the resolution of all such actions by the parties hereto.	
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**PASSED, APPROVED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA** this 14th day of October, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

\_\_\_\_\_  
Michael LePage  
Chair

\_\_\_\_\_  
Margi Perotti  
Planning Commission Secretary

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

*Once signed, please return to the Community Planning and Building Department.*