



Z O N I N G
A D J U S T M E N T S
B O A R D
S T A F F R E P O R T

FOR BOARD ACTION
APRIL 27, 2023

2000 Milvia Street

Use Permit #ZP2022-0124 to add service of alcoholic beverages under a Type 47 ABC license to serve beer, wine, and distilled spirits incidental to food service, to a new full-service restaurant.

I. Background

A. Land Use Designations:

- General Plan: DT- Downtown
- Zoning: C-DMU Buffer (Downtown Mixed Use)

B. Zoning Permits Required:

- Use Permit, pursuant to Berkeley Municipal Code (BMC) Section 23.310.030, to add Alcoholic Beverage Service, including distilled spirits, to a full-service restaurant.

C. CEQA Recommendation: It is staff's recommendation to the Zoning Adjustments Board (ZAB) that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq. and California Code of Regulations, Section 1500, et seq.) pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"). The determination is made by ZAB.

D. Parties Involved:

- Applicant Ramen Authority, Inc., 6350 Kensington Ave., Richmond, CA
- Property Owner Stonefire Partners LLC, 315 Oconee Street, Athens, GA

Figure 1: Vicinity Map



Figure 3: Floor Plan

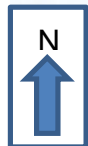
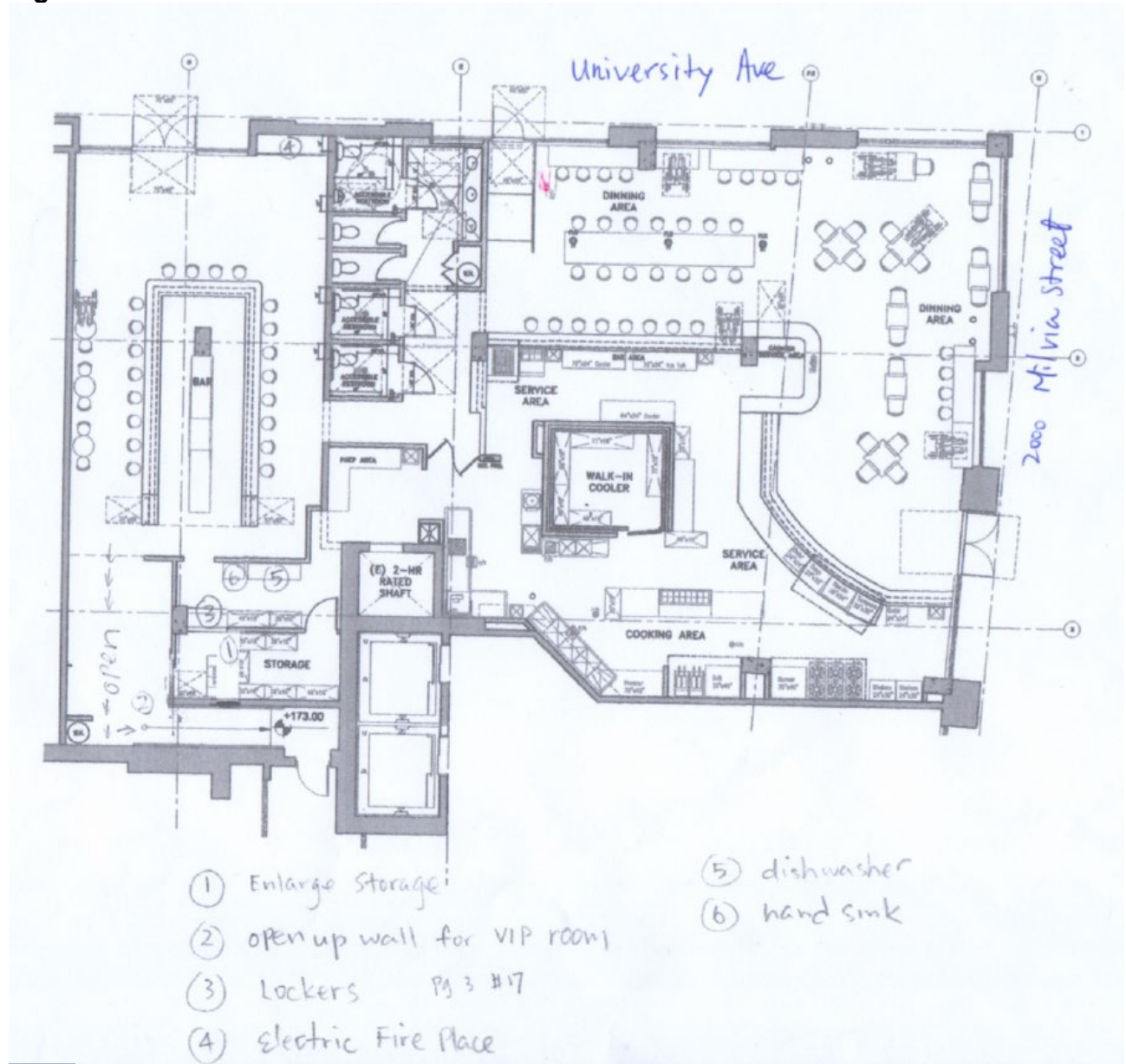
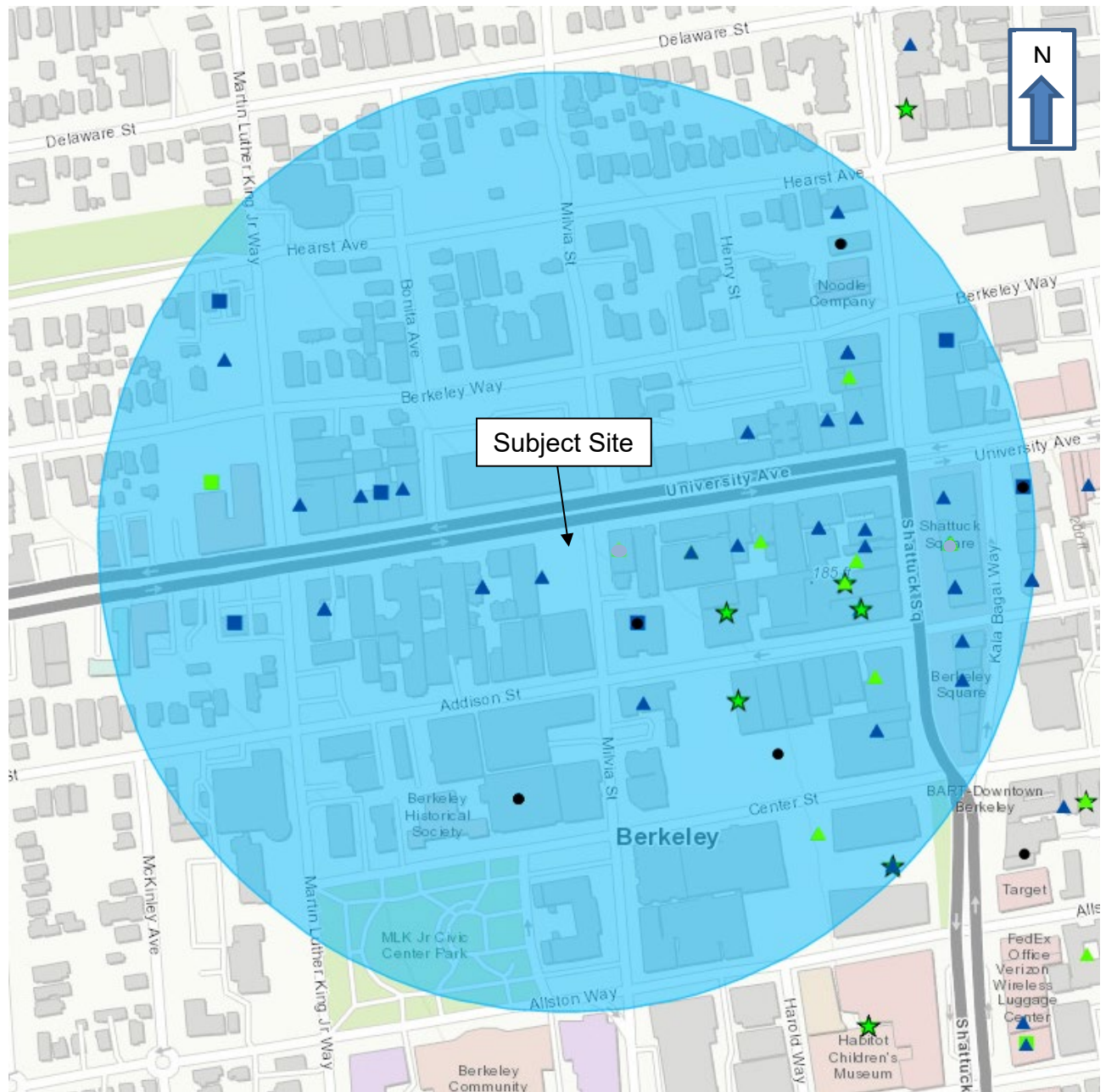


Figure 4: Liquor Licenses Within 1,000 Feet of Subject Site



ABC License Type	
■	20 - Off Beer Wine
■	21 - Off General
▲	41 - On Beer Wine Eating Place
▲	47 - On General Eating Place
★	58 - Caterer
★	64 - Spcl On General Theater
●	Other License Type

Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Vacant commercial	C-DMU Buffer	DT-Downtown
Surrounding Properties	North	Offices/Educational	C-DMU Buffer	
	South and above	Multi-family Residential	C-DMU Buffer	
	East	Commercial mixed-use	C-DMU Core	
	West	Restaurant	C-DMU Buffer	

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Alcohol Sales/Service	Yes	The applicant is applying for Type 47 ABC license to serve beer, wine, and distilled spirits incidental to food service.
Public Convenience or Necessity	Yes	There are six other Type 47 ABC licenses within 1,000 feet. Therefore, public convenience and necessity findings are required.
Affordable Child Care or Housing Fee for qualifying nonresidential projects (Per Resolutions 66,618-N.S. & 66,617-N.S.)	No	The proposed project does not include new floor area or a new use in a space vacant for more than three years; therefore, this mitigation fee payment does not apply
Creeks	No	No new construction is proposed.
Natural Gas Prohibition (Per BMC 12.80.020)	No	
Historic Resources	No	
Seismic Hazards (SHMA)	No	
Soil/Groundwater Contamination	No	
Transit	Yes	Multiple transit routes and stops are nearby. These include BART and AC Transit lines 800, 51B, 52, 12, 88, 79, F, and others.

Table 3: Project Chronology

Date	Action
September 22, 2022	Application submitted
October 5, 2022	Project plans received
November 8, 2022	Application deemed complete
April 13, 2023	Public hearing notices mailed/posted
April 27, 2023	ZAB hearing

II. Project Setting

- A. Neighborhood/Area Description:** The project site is located on the south-west corner of Milvia Street and University Avenue. The neighborhood contains a variety of mixed-use commercial buildings, including apartments, offices, restaurants (many with alcoholic beverage service), and retail stores.
- B. Site Conditions:** The parcel is fully developed with an eight-story mixed-use building. The bottom floor is primarily occupied by restaurants and retail spaces. The other seven floors above the commercial space consist of residential apartment units. There is not on-site parking or open space on this downtown lot.

III. Project Description

This project would add alcoholic beverage service (including distilled spirits), under a Type 47 ABC license, to a new 3,015 square foot Japanese restaurant called Sobo Ramen. The proposed hours of operation are Monday – Thursday, 11:00 am – 11:00 pm; Fridays and Saturdays, 11:00 am – Midnight; and Sundays, 11:00 am – 10:00 pm. All seating and dining will be indoors. The restaurant upfit and business licenses are already approved under separate permits.

IV. Community Discussion

- A. Neighbor/Community Concerns:** A pre-application poster was installed by the applicant on August, 2022. On April 13, 2023, the City mailed public hearing notices (Attachment 3) to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and posted notices within the neighborhood in three locations. At the time of writing this report, staff has not received any communications regarding the project.
- B. Committee Review:** This project is not subject to review by the Design Review Committee or the Landmarks Preservation Committee because no exterior changes are proposed. If exterior changes and/or signage are proposed as part of the associated tenant improvement(s), they will be evaluated by the applicable land use staff at that time.

V. Issues and Analysis

A. Alcoholic Beverage Service: Alcoholic Beverage Service: Alcoholic beverage sales and service that includes distilled spirits incidental to food service is allowed in the C-DMU District (BMC 23.204.020) if a Use Permit is granted by the ZAB in accordance with required findings.

Alcoholic beverage service is also regulated by BMC 23.310.020(D) for Special Use Standards. This section requires the City to make all of the "Public Convenience or Necessity" findings if an existing establishment has an ABC license of the same type, other than beer and wine service incidental to food service, within a 1,000-foot radius of the project site. As shown in Table 4, there are currently six other establishments within a 1,000-foot radius with a Type 47 ABC license for service of beer, wine, and distilled spirits incidental to food service.

Table 4: Type 47 Alcoholic Beverage Licenses Within 1,000 Feet of Project Site

Name/Address	License Type and Description
Spats, 1974 Shattuck Avenue	Type 47: Bar
Berkeley Social Club, 2050 University Ave.	Type 47: Restaurant
Comal, 2020 Shattuck Avenue	Type 47: Restaurant
Aurora Theatre Company, 2081 Addison St.	Type 47: Theater
Revival Bar & Kitchen, 2102 Shattuck Ave.	Type 47: Restaurant
Eureka, 2068 Center Street	Type 47: Restaurant

In order to approve the Use Permit, ZAB must affirm all of the "Public Convenience or Necessity" findings under BMC Section 23.310.020(D), as follows:

1. The proposed establishment will promote the City's economic health, contribute to General Plan or area plan policies, or further the district purpose.

Staff Analysis: The proposed restaurant, including the incidental alcohol service, will contribute to the economic and cultural health of the city and the downtown area. It is consistent with the goals of the Berkeley General Plan and Downtown Area Plan, which include making Downtown a recognized center for culture and arts.

2. *The economic benefits associated with the establishment could not reasonably be achieved without the proposed alcohol sales or service.*

Staff Analysis: The applicant has invested significant financial resources to improve the tenant space, with the expectation that the offerings in the new dining space, including the service of distilled spirits, will result the economic benefit of the surrounding businesses and the district. Without distilled spirits service, the business would be at a competitive disadvantage with neighboring restaurants because many restaurants in the downtown area already provide this service.

3. *If the applicant has operated a licensed establishment that has been the subject of violations regarding alcohol in the State of California, or violations of public safety or nuisance statutes or regulations in Berkeley as verified by the Police Department, such violations do not indicate a high likelihood of further violations and/or detrimental impacts from the proposed establishment. In making this finding, the ZAB may consider the number, frequency, and severity of prior violations, the time elapsed since the last violation, and other relevant factors.*

Staff Analysis: The Berkeley Police Department (BPD) has not reported any alcohol-related violations involving this business or its owner (refer to Attachment 4).

4. *If the proposed establishment is within 1,000 feet of any public park or public school, the ZAB has taken into consideration the effect of the proposed establishment upon such sensitive public uses.*

Staff Analysis: The project is not located within 1,000 feet of any public school.¹ Most of MLK Jr. Civic Center Park is within 1,000 feet, as well as a very small portion of Ohlone Park. However, both of these parks are a few blocks away from the project location. Additionally, as a standard Condition of Approval, no visible advertising of alcohol beverages is allowed, and the business staff would be required to check customers for proper identification to purchase alcohol.

5. *The Police Department has reported that the proposed establishment would not be expected to add to crime in the area.*

Staff Analysis: Staff referred this application to the BPD for review and comment. In a letter dated January 5, 2023, BPD stated, "This is new restaurant in the neighborhood and we believe this addition will not cause a radical change to the neighborhood. The neighborhood is very active with businesses, other restaurants/bars, nightlife and students. The restaurant/bar will most certainly be a welcome addition to the neighborhood. A record check with ABC shows Ramen Authority/Sobo Ramen is in good standing" (refer to Attachment 4). Therefore, the proposed project would not be expected to add crime to the area.

B. Use Permits in the C-DMU District:

BMC Section 23.204.130 allows alcoholic beverage service with approval of a Use Permit, subject to ZAB making the applicable findings in BMC Section 23.204.130(I). In order to approve any Use Permit in the C-DMU District, ZAB must find that the proposed use is:

- 1) Compatible with the purpose of the District, which is to implement the vision and goals of the Downtown Development Plan (adopted 2012) to include: Environmental Sustainability, Land Use, Access, Historic Preservation and Urban Design, Streets and Open Space, Housing and Community Health and Services, and Economic Development.

¹ "School" is defined in BMC 23.502 (Glossary) as elementary, secondary, and high school only.

- 2) Compatible with the surrounding uses and buildings.

Staff Analysis: The service of distilled spirits will strengthen the economic and cultural opportunities for area residents and a citywide clientele while maintaining compatibility with surrounding uses and buildings. See Section VI below for analysis of consistency with the Downtown Development Plan.

- C. General Non-Detriment Finding:** BMC Section 23.406.040(E) requires that before the ZAB approves an application for a Use Permit, it must find that the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

Staff Analysis: The alcohol service would be incidental to food service, and due to the incidental nature of the service, as well as the size and location of the restaurant, the addition of distilled spirits would not have a detrimental impact on public health, safety, or peace. In addition, the project is subject to the City's standard conditions of approval regarding hours of operation and alcoholic beverage service, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City. Furthermore, the project does not propose live entertainment, and it does propose a security system to monitor the premises when the business is closed.

VI. Other Considerations

- A. General Plan Consistency:** The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy LU-1–Community Character: Maintain the character of Berkeley as a special, diverse, unique place to live and work.

Staff Analysis: The serving of distilled spirits at this new restaurant will enhance customer experiences and help the restaurant to promote the character of Berkeley as a special, diverse, unique place to live and work.

2. Policy LU-16–Downtown Plan: Express and enhance Berkeley's unique social and cultural character in the Downtown; create an appealing and safe Downtown environment, with a comfortable pedestrian orientation; diversify, revitalize, and promote the Downtown economy.

Staff Analysis: The serving of distilled spirits would be consistent with the diversity of economic activities in a District that is well served by transit.

B. Downtown Plan Consistency: The Downtown Area Plan, adopted in 2012, also contains several policies applicable to the project, including the following:

1. LU Goal 1, Policy LU-1.1: Encourage uses that allow people who live, work and learn in Downtown to meet daily needs on foot.
2. LU Goal 1, Policy LU-1.3: Cultivate synergy between restaurants, shops and other businesses, combined with Downtown's focus on cultural and educational uses, to encourage a thriving and diverse retail environment.

Staff Analysis: Distilled spirit service at this new restaurant will contribute to the policies and goals aimed at maintaining walkable and diverse downtown that is compatible with and complementary to other area businesses, and the needs and desires of downtown area residents, workers, and visitors.

VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board: **APPROVE** Use Permit ZP2022-0124 pursuant to Section 23.406.040.D and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received October 5, 2022
3. Notice of Public Hearing
4. Berkeley Police Department Letter, dated January 5, 2023

Staff Planner: Russell Roe, roe@cityofberkeley.info, (510) 981-7548

ATTACHMENT 1

FINDINGS AND CONDITIONS

APRIL 27, 2023

2000 Milvia Street

Use Permit #ZP2022-0124 to add service of alcoholic beverages under a Type 47 ABC license to serve beer, wine, and distilled spirits incidental to food service, to a new full-service restaurant.

PERMITS REQUIRED

- Use Permit, pursuant to Berkeley Municipal Code (BMC) Section 23.310.030, to add Alcoholic Beverage Service under a new Type 47 ABC license, including distilled spirits, to a full-service restaurant.

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. GENERAL NON-DETRIMENT FINDINGS FOR APPROVAL

1. As required by Section 23.406.040.(E) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
 - A. Sobo Ramen promises to play background music in the venue, but never at a level that could be construed as too loud, obscene, or disruptive to their customers or the neighborhood;
 - B. They will be installing a security system to monitor the building when the venue is closed;
 - C. The project is consistent with all applicable C-DMU District standards, including use and hours of operation;
 - D. The addition of distilled spirits alcoholic beverage service in the restaurant will not expand the footprint of the business. The proposed service will provide an additional option for patrons in the West Berkeley/University Avenue area;
 - E. The alcohol service will be incidental to the overall food service use, and as such, alcohol sales will not have detrimental impact on public health, safety, or peace; and
 - F. The permit is subject to the standard conditions for alcohol sales, which will ensure that the restaurant will continue to be a good neighbor.

III. OTHER FINDINGS FOR APPROVAL

1. As required by Section 23.310.020(D), the Zoning Adjustments Board finds that:
 - A. The addition of liquor service in the restaurant will contribute to the variety of goods and services which serve residents in, and visitors to, the area. The expansion of services will contribute to the vitality of the neighborhood. The project will contribute to the City's economic health.
 - B. The addition of liquor service to the menu will enable the restaurant to remain competitive with other similar businesses in the neighborhood. Additionally, increased business revenue would result in increased tax revenue for the City.
 - C. The applicant has not operated another establishment that has been the subject of violations regarding alcohol in the State of California.
 - D. While there are two public parks located within 1,000 feet of the restaurant, it is not likely that the restaurant's incidental alcoholic beverage service will have any effect on these parks. Additionally, as a standard Condition of Approval, no visible advertising of alcohol beverages is allowed, and the business staff would check customers for proper identification to purchase alcohol.
 - E. In a letter dated January 5, 2023, Berkeley Police Department (BPD) indicated that BPD would support this project.

 2. As required by Section 23.204.130(I) of the BMC, the Zoning Adjustments Board finds that:
 - A. This project is consistent with the purposes of the C-DMU District, which allows the service of distilled spirits for purposes of on-site consumption; and
 - B. The project is compatible with surrounding uses and buildings;
-

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

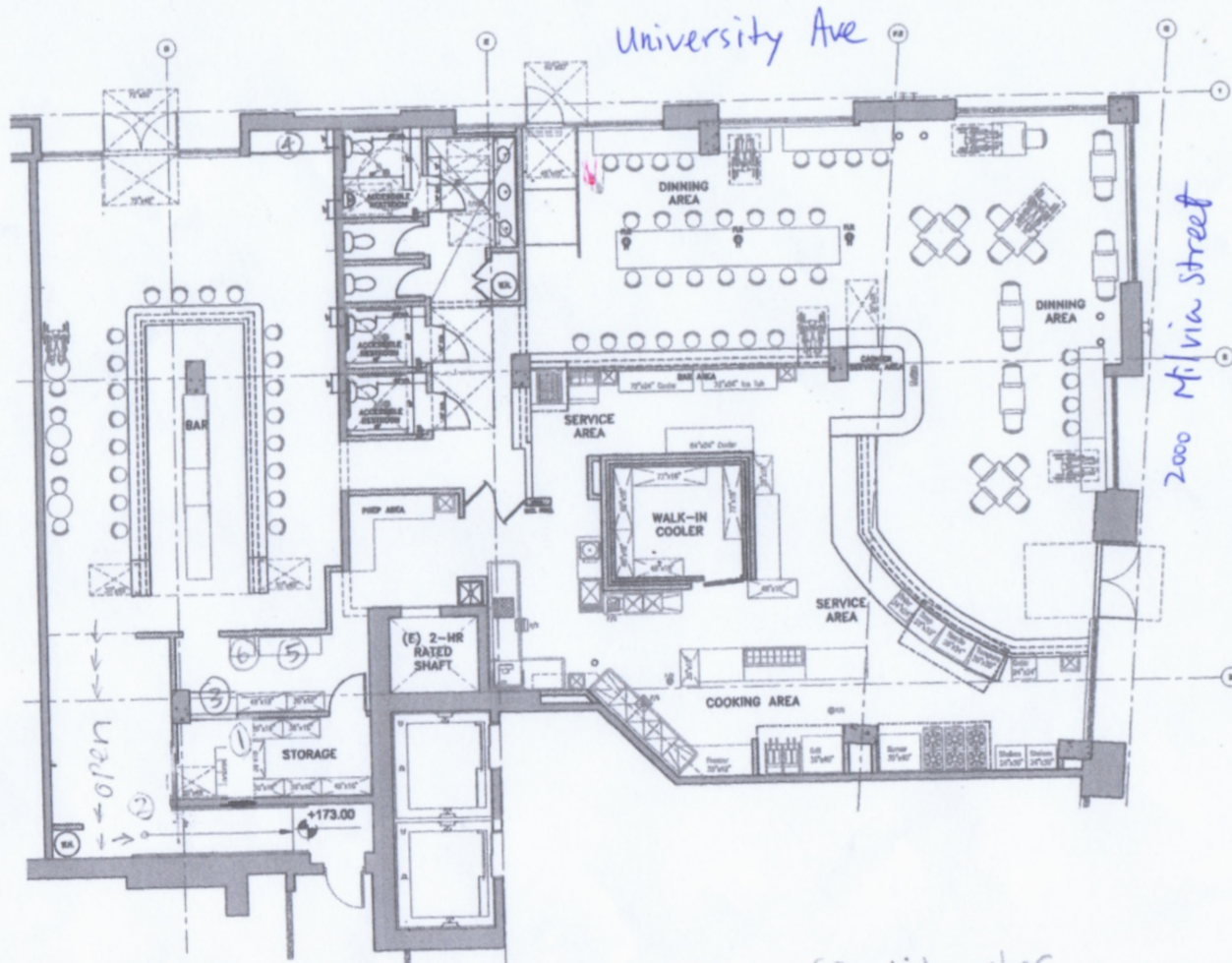
Pursuant to BMC 23.406.040.E, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

ALCOHOLIC BEVERAGE SERVICE CONDITIONS (on-site)

10. The Food Service Establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control (ABC).

11. Alcoholic beverage service shall be “incidental” to the primary food service use, as defined in Zoning Ordinance 23.502. An incidental use shall not exceed twenty-five percent (25%) of the floor area of the primary use, and if it consists of the commercial sales of a different line of products or services than the primary use, such incidental use may not generate gross receipts in excess of thirty-three percent (33%) of the gross receipts generated by the primary use.
12. Alcohol beverage service shall be only be allowed as part of a “bona fide eating place” making “actual and substantial sales of meals,” and stringently enforces this requirement as determined and required by the ABC.
13. The service of alcohol shall be limited to normal meal hours (per ABC) during the restaurant’s hours of operation. Patrons may only purchase food or finish drinks already purchased within the approved service hours. The Zoning Adjustments Board shall approve any change in the hours of restaurant operations and/or alcohol service (except decreased hours in compliance with applicable ABC regulations). Hours of operation are subject to review and amendment by the Zoning Adjustments Board as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City standards or policies.
14. During operating hours, 100% of the service area shall be designed and used for and must possess the necessary utensils, and condiment dispensers with which to serve meals to the public.
15. The sale of alcoholic beverages for consumption off the premises is prohibited.
16. There shall be no service or consumption of alcohol on the public right-of-way, unless authorized by a Public Works sidewalk seating permit.
17. All alcoholic beverages served to patrons must be served in durable restaurant tableware (i.e. cups or glasses). No beer or wine may be distributed in its original bottle or can, or in any other potentially disposable container.
18. There shall be no bar or lounge area upon the licensed premises maintained for the sole purpose of sales, service or consumption of alcoholic beverages directly to patrons for consumption.
19. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Neither alcohol-dispensing facilities nor sign(s) advertising alcoholic beverages shall be visible from the public right-of-way. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
20. A Berkeley Police Department Crime Prevention Through Environmental Design (CPTED) survey shall be completed prior to commencing alcohol service.
21. All employees selling and/or serving alcohol, or directly supervising such sales and/or service, shall complete the Licensee Education on Alcohol and Drugs (LEAD) program, or another equivalent program offered or certified by the California Department of Alcoholic Beverage Control within 6 months of employment at the establishment. Employees who have completed the course within the last five (5) years shall be exempt from this requirement.

- 22.** Employees shall not serve alcohol to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.
 - 23.** Any operator of the licensed establishment shall not have had a prior licensed establishment that was the subject of verified complaints or violations regarding alcohol, public safety or nuisance statutes or regulations to be confirmed by the Zoning Officer prior to issuance or transfer of a business license at this location.
 - 24.** Fortified alcohol products (e.g., malt liquor), shall not be sold on the premises.
 - 25.** The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.
 - 26.** At no time shall the operator rent the restaurant space to a third-party promoter.
 - 27.** The owner or operator of the establishment shall take reasonable measures to prevent disturbances by patrons in the immediate vicinity. Such measures shall include signs reminding patrons of nearby residences and requests not to congregate or loiter near such residences nor operate vehicles in a noisy manner on residential streets. The operator shall give surveillance to public areas near the establishment, keep such areas free of trash and litter, provide lighting, and otherwise attempt to prevent conduct that might disturb the peace and quiet of residences in the vicinity. Furthermore, the operator shall assume reasonable responsibility for ensuring that patrons do not block the entrance or interfere with pedestrian activity on the adjacent public sidewalk.
 - 28.** This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.
 - 29.** This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
 - 30.** All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
-



- ① Enlarge Storage
- ② open up wall for VIP room
- ③ Lockers Pg 3 #17
- ④ electric Fire Place
- ⑤ dishwasher
- ⑥ hand sink



Z O N I N G A D J U S T M E N T S B O A R D

NOTICE OF PUBLIC HEARING

2000 Milvia Street

Use Permit #ZP2022-0124 to add service of alcoholic beverages under a Type 47 ABC license to serve beer, wine, and distilled spirits incidental to food service, to a new full-service restaurant.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.404.

When: Thursday, April 27, 2023, 7:00 pm

Where: Berkeley Unified School District meeting room, 1231 Addison Street, (wheelchair accessible) with remote/hybrid option (via Zoom).

Please see the Agenda for details:

https://berkeleyca.gov/sites/default/files/documents/2023-04-27_ZAB%20Agenda.pdf.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION AVAILABLE FOR MEMBERS OF THE PUBLIC.

For in-person attendees, face coverings or masks that cover both the nose and mouth are encouraged. If you're feeling sick, please do not attend the meeting in-person as a public health precaution.

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as "distanced seating" to accommodate persons that need to distance for personal health reasons.

A. Land Use Designations:

- General Plan: DT-Downtown
- Zoning: C-DMU Buffer (Downtown Mixed Use)

B. Zoning Permits Required:

- Use Permit, pursuant to Berkeley Municipal Code (BMC) Section 23.310.030, to add Alcoholic Beverage Service, including distilled spirits, to a full-service restaurant.

C. CEQA Recommendation: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities).

2000 MILVIA STREET
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NOTICE OF PUBLIC HEARING
Posted APRIL 13, 2023

D. Parties Involved:

E. Applicant

Ramen Authority, Inc., 6350 Kensington Avenue. Richmond, CA

F. Property Owner

Stonefire Partners LLC, 315 Oconee Street, Athens, GA

2000 MILVIA STREET
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NOTICE OF PUBLIC HEARING
Posted APRIL 13, 2023

Further Information:

All application materials are available online at:
<https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx>.

The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>.

Questions about the project should be directed to the project planner, Russell Roe, at (510) 981-7548 or roer@cityofberkeley.info.

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at zab@cityofberkeley.info.

Communication Disclaimer:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

Written Comments, Communications, and Reports:

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: zab@cityofberkeley.info. All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>

All persons are welcome to attend the hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board. Note that if you submit a hard copy document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by 5:00 PM two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports, which is released around noon one day before the public hearing; or
- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.



Accessibility Information / ADA Disclaimer:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

SB 343 Disclaimer:

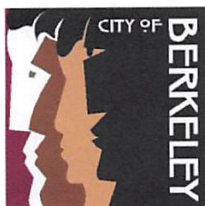
Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division (zab@cityofberkeley.info) to request hard-copies or electronic copies.

Notice Concerning Your Legal Rights:

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice.
 2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
 3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
 4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
 5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above. If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.
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Internal



Police Department

January, 5th 2023

TO: Russell Roe, Associate Planner
City of Berkeley, Department of Planning and Development
1947 Center Street
Berkeley, CA 94704

Re: Sobo Ramen Berkeley., 2000 Milvia Street

Dear Mr. Russell,

This letter is in response to your request to review a proposed change to the above business/apartment complex as outlined in the attached Zoning Project Application. The owner (Stella Loi) of the new restaurant Sobo Ramen Berkeley is requesting a full liquor license at the location. The applicant/owner indicates they will obtain an Alcohol Beverage Control License Type 47 (On Sale General Eating Place).

Based on the information from the Applicant's statement and research of our records, Berkeley Police Department supports approval of this application.

This is a new restaurant in the neighborhood and we believe this addition will not cause a radical change to the neighborhood. The neighborhood is very active with businesses, other restaurants/bars, nightlife and students. The restaurant/bar will most certainly be a welcome addition to the neighborhood. A records check with ABC shows Ramen Authority/Sobo Ramen is in good standing.

The Sobo Ramen restaurant will not significantly alter vehicle or pedestrian traffic in the area. Sobo Ramen essentially replaces a once popular restaurant that was directly across the street but no longer exists. As stated above this area of Milvia St and University Ave is very active especially since the pandemic is over. The Sobo Ramen restaurant/bar at this address seems to easily fit in with the character of this neighborhood.

An analysis of police service data at 2000 Milvia St, reveals only 17 calls for service in our current database, which dates to 2011. Of these 17 calls for service in 13 years, the majority of them seemed to be placed by citizens asking for assistance, for example with issues with petty theft incidents, emotionally disturbed people entering the businesses or causing disturbances.

Internal

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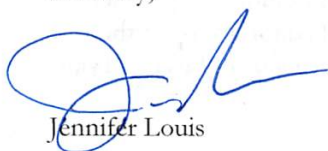
Based on this information, we believe the proposed new restaurant is not at all likely to increase crime or disorder in the district.

Researching other applications, we have noticed a correlation between businesses having live music and increased calls for service to BPD, often for noise complaints. Sobo Ramen indicates they will have background music in the restaurant which will not be at a noise level as to disturb the neighborhood. Sobo Ramen will not have live music.

A search of the California ABC public data portal shows there are no alcoholic beverage violations reported against Ramen Authority/Sobo Ramen.

In conclusion, we see no reason to believe this business would increase crime or calls for service in the neighborhood, and see no reason it would have an adverse effect on the health, safety, or morals of the people in the area. We believe it will in fact be a net positive as more businesses open in the neighborhood after the long closures due to the pandemic.

Sincerely,



Jennifer Louis

Interim Chief of Police

JL/gs