



**CITY OF OAKLAND**  
**BUREAU OF PLANNING - ZONING DIVISION**  
250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031  
Phone: 510-238-3911 Fax: 510-238-4730

**Sent Via Email**

August 10, 2022

Chris Rachal  
Mimosa 2 Oakland  
3320 Grand Avenue  
Oakland, CA 94610  
[mimosa2oakland@gmail.com](mailto:mimosa2oakland@gmail.com)

**Zoning Manager's Determination (Appeal of Major Zoning Violation Code Enforcement)**

**RE: Case File No. DET220087; Complaint No. 2106266; 3320 Grand Avenue; APN: 011 083603300**

Dear Chris Rachal,

This letter is in response to your appeal of a City of Oakland Notice of Violation (*Attachment A*), dated April 11, 2022 and filed on April 12, 2022 on behalf of Crawfordscharchmidt LLC.

The Notice of Violation (*Attachment B*) was sent to Crawfordscharchmidt LLC on March 22, 2022. Specifically, the Notice of Violation noted:

- “Operation of a Group Assembly Commercial Activity in a Zoning District (CN-2) where such activity is not Permitted without a Conditional Use Permit, and
- “Operation of an Alcoholic Beverage Sales Commercial Activity in a Zoning CN-2) where such activity is not Permitted without a Conditional Use Permit.”

Per the City of Oakland Code Enforcement Service's Appeal form, appeals of Notice of Violations regarding unpermitted activities, changes of use, expansions of non-conforming uses, etc. are considered Appeals of Major Zoning Violations and require a Determination from the Zoning Manager, which is appealable to the Planning Commission.

Staff reviewed the documents you submitted as part of your appeal as well as Code Enforcement documents and the permit history. The City has determined, based on the evidence, that:

**The business is a Full-Service Restaurant Commercial Activity and not a Group Assembly Commercial Activity or an Alcoholic Beverage Sales Commercial Activity but is subject to the Performance Standards in Planning Code Section 17.120 including noise at all times during business operation.**

The City's Determination is based on the following:

**Land Use Activities Background**

Oakland Planning Code Section 17.10.010 (Title, purpose, and applicability) states that “The provisions of this Chapter shall be known as the Use Classifications. The purpose of these provisions is to classify uses into a number of specially defined types on the basis of common functional characteristics and similar compatibility with other uses, thereby providing a basis for regulation of uses in accordance with criteria which are directly

relevant to the public interest.”

Oakland Planning Code Section 17.10.050.C (Classification of combinations of principal activities and Classification of Different Activities within Same Major Class, Conducted by Single Establishment) states that “If principal activities conducted on a single lot by a single establishment, management, or institution resemble two or more different activity types within the same major class (in this case Commercial Activities) of activities, all such principal activities shall be classified in the activity type within said class the description of which type most closely portrays the overall nature of such activities.”

However, this section goes on to note that when an establishment has the characteristic of Alcoholic Beverage Sales then that shall be considered to not be accessory but its own principal activity. The Planning Code goes on to further define Residential, Civic, Commercial, and Industrial Activities. Specifically, the activities most relevant to the Determination include:

Section 17.10.260 (General description of Commercial Activities) states that “Commercial Activities include the distribution and sale or rental of goods; the provision of services other than those classified as Civic Activities; and the administrative and research operations of private, profit-oriented firms, other than public utility firms.”

### **Land Use Activities Analysis**

When reviewing a new land use activity for a parcel, staff must make a determination regarding the Activity classification the use best resembles. In this instance, staff evaluated the following Definitions and Commercial Activities as part of the Zoning Determination with key important characteristics underlined.

- **17.09.040 Definitions.**

*"Alcoholic beverage"* means alcohol, spirits, liquor, wine, beer, or any liquid or solid containing alcohol, spirits, wine, or beer, which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

*"Full-service restaurant"* means a place that is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation; and that has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant. Also, see Sections 17.10.272 and 17.156.070.

- **17.10.272 Full-Service Restaurant Commercial Activities.**

Full-Service Restaurant Commercial Activities include the provision of food or beverage services to patrons who order and are served while seated (table service), and pay after eating. Only a minor proportion, if any, of the food is sold for consumption off-premises. These restaurants have kitchens that contain equipment suitable for cooking an assortment of foods; and may include service of liquor, beer and/or wine, subject to the standards in Section 17.103.030. Also, see Section 17.156.070 for definitions of a Full-Service Restaurant in relation to the Deemed Approved Beverage Sale regulations. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. (Emphasis added.)

- **17.10.274 Limited-Service Restaurant and Cafe Commercial Activities.**

Limited-Service Restaurant and Cafe Commercial Activities include the provision of food or beverage services to patrons that generally order and pay at a service counter before eating. Food and beverages may be served in disposable containers and may be consumed on the premises or taken out. Seating for on-premises consumption is usually available and table service may or may not be provided. These restaurant(s) may include service of beer and/or wine, subject to the standards in Section 17.103.030. Examples of these activities include, but are not limited to, cafes and restaurants that do not fall under Section 17.10.272 Full-

Service Restaurant Commercial Activities, or Section 17.10.280 Fast-food Restaurant Commercial Activities. Also, see Section 17.156.070 for definition of a Limited-Service Restaurant or Café in relation to the Deemed Approved Alcoholic Beverage Sale regulations. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. (Emphasis added.)

- 17.10.300 Alcoholic Beverage Sales Commercial Activities.  
Alcoholic Beverage Sales Commercial Activities include the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, but exclude Full-Service Restaurants, Limited-Service Restaurants and Cafes, and alcoholic beverage manufacturers that comply with their respective definition in Sections 17.10.272, 10.10.274, and 17.103.030. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. (Emphasis added.)
- 17.10.380 Group Assembly Commercial Activities.  
Group Assembly Commercial Activities include the provision of instructional, amusement, and other services of a similar nature to group assemblages of people. This classification does not include any activity classified in Section 17.10.160 Community Assembly Civic Activities, Section 17.10.170 Recreational Assembly Civic Activities, or Section 17.10.180 Community Education Civic Activities. Examples of activities in this classification include, but are not limited to, the following:
  - Cabarets, night clubs, dance halls, adult entertainment, and pool halls. (Emphasis added.)

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

- 17.156 Deemed Approved Alcoholic Beverage Sale Regulations.

17.156.010 Title, purpose, and applicability. The provisions of this Chapter shall be known as the title and scope of the Deemed Approved Alcoholic Beverage Sale Regulations. The purpose of these provisions is to specify the title, purposes, and applicability of the Deemed Approved Alcoholic Beverage Sale regulations and to require conformity to said regulations.

17.156.030 Purpose of Deemed Approved Alcoholic Beverage Sale regulations. The general purposes of the Deemed Approved Alcoholic Beverage Sale regulations are to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare by requiring that Alcoholic Beverage Sales Commercial Activities that were Legal Nonconforming Activities immediately prior to the effective date of the Deemed Approved Alcoholic Beverage Sale regulations comply with the Deemed Approved performance standards at Article III of this Chapter and to achieve the following objectives.....

- 5.12.10 of the Oakland Municipal Code  
"Cabaret" shall be construed to include any place where the general public is admitted, for a fee, entertainment is provided, and alcohol is served. A place that does not charge for admission but where the general public is admitted, alcohol is served, dancing is permitted, and the venue operates past 11:00 p.m. shall also be construed as a cabaret. (Emphasis added.)

## **Property History**

Based on the City microfiche records, the property was a real estate office since at least 1978. The property received a Zoning Clearance on September 29, 2005, for an Administrative Commercial Activity for an office for a clerical support of a real estate office (ZC052841). A Zoning clearance was also granted in August and again in November of 2010 for a Consultative and Financial Commercial Activity (ZC101923 and ZC102431). On August 26, 2015, a Zoning Clearance was granted for a Full-Service Restaurant Commercial Activity (ZC151950 for E.W. Trapps). The Zoning Clearance later noted on April 12, 2018 that Zoning Counter Manager was consulted, and the site was acceptable for an on-site beer manufacturing use for on-site consumption with a Type 41 Alcohol Beverage Control License. On July 27, 2021, a Zoning Clearance was granted for Mimosa on Grand after a determination was made that it was a Full-Service Restaurant (ZC210534).

### **Staff Analysis**

Staff concluded, based upon the evidence submitted by the Appellant and collected by the Zoning Inspection Division, the City Administrator's office, the Planning Code, and staff's classification of similar activities on other lots that:

- The use does not fall under the Deemed Approved Alcoholic Beverage Sale Regulations. The Deemed Approved Regulations were adopted in 1993 (Ordinance 11624 C.M.S.) to regulate properties that had previously included the sale of alcohol and would become legal non-conforming with the new regulations. Deemed Approved status does not apply to properties that became alcohol serving establishments after 1993. In those cases, the new regulations would apply. The property is not listed on the City's Deemed Approved Alcoholic Beverage Sale List and was previously an office and real estate office. As such, none of the definitions, criteria, requirements or performance standards for Deemed Approved Alcohol Beverage Sale Regulations apply to Mimosa on Grand.
- The use is not a Limited-Service Restaurant and Cafe Commercial Activity. The establishment does not have a service counter where orders for food and drink orders are received and food and beverages are paid for up front prior to providing to the customer. Food and beverages are not sold in disposable containers and food is generally not taken out for consumption off-site as it is plated.
- The use is not a "Cabaret" as defined in the Municipal Code. The City Administrator's Municipal Code Enforcement Officer has determined that the establishment does not meet the definition. Specifically, the establishment is not charging a cover charge for entertainment, and there is not dance floor. While outside disc jockeys (DJs) and in-house personnel do provide music, this is no different any other music heard in a restaurant, and staff does not distinguish between types of music that may be provided as part of a restaurant experience. Furthermore, there is no dance floor space. Since all the tables are fixed in place and non-movable, staff recognizes that the space cannot be converted into a dance floor as one would expect in a restaurant converted to a typical night club (*Attachment C*).
- The use is not a Group Assembly Commercial Activity as the City Administrator's Municipal Code Enforcement Officer has determined that the establishment does not operate as a Cabaret. There is no other characteristic that is primary to the operation that would result in this being classified as Group Assembly as opposed to the Full-Service Restaurant activity.

In sum, the establishment is a Full-Service Restaurant Commercial Activity, with accessory elements that involve alcohol sales.

The business clearly exhibits the physical characteristics of a Full-Service Restaurant Commercial Activity. The business is open from noon to five on Sunday serving brunch<sup>1</sup> per their website. The Definitions section of the Planning Code<sup>2</sup> does not require that the business be open everyday for lunch nor outline the specific hours of lunch. Furthermore, per the Definition section and Full-Service Restaurant Commercial Activity definition in Section 17.10.272, the establishment provides food and beverage service to patrons who sit at tables and pay after eating. The restaurant does have bar seating but this is not entirely indicative of a solely Alcohol Beverage Sales Activity. Food is rarely taken out for off-site consumption. Meals are plated. Building permits were approved for establishment of a full kitchen with suitable cooking equipment, meaning the kitchen does not consist solely of a microwave or a hotplate (B1504779, M1601647, and P1602430)<sup>3</sup>. The menu has an assortment of food available

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<sup>1</sup> <https://tableagent.com/san-francisco/mimosa-two/table-search/>

<sup>2</sup> It should be noted that the Definition of a Full-Service Restaurant in Section 17.09 seems to be a relic from the previous Planning Code when restaurants were included as a General Food Sales Activity. Full-Service Restaurant Commercial Activities became a separate Activity in own activity around 2010 with the Citywide Zoning Code Updates.

<sup>3</sup> Appeal document photos also show the full kitchen facilities.



from salads, appetizers, seafood and meat dishes, and desserts. In other words, the restaurant has a full menu, not just sandwiches or snack food (like chips or nuts).

Per the Appeal, the business employs an executive chef, two sous chefs, and two line cooks along with hostesses and servers. Finally, Full-Service Restaurant Commercial Activities are permitted to have alcohol including beer, liquor, champagne and wine as accessory to the restaurant per Planning Code Section 17.103.030(B)(1)(c). Thus, the mere fact that alcohol is served does not prohibit it from being classified as a Full-Service Restaurant.

The business also clearly exhibits some characteristics of an Alcoholic Beverage Sales Commercial Activity, while not fitting squarely within the type of use we generally see classified under this activity category. The business clearly is selling alcohol as described on their website, drinks menu, “bottle service” description and other marketing materials such the website and flyers which note “restaurant and champagne lounge”, champagne bar and eatery”, “Champagne Bar”, “Nightclub”, and “Cocktail retreat”, “Small Plates”, Restaurant, Nightclub, Nightlife Attire”, “Limited Dining Menu”, etc.

Documentation has also been provided in the record related to events, ticket sales, flyers that seem more like those distributed for club event, reservations which note a number of hours available for a table, a dress code, dark lighting, roped off sections of the seating, low table seating, and hours of operation and when the food is served. Superficially, it seems that the business is a Full-Service Restaurant Commercial Activity, with some limited qualities that may lend one to believe they are an Alcoholic Beverage Sales Commercial Activity.

However, the Planning Code Section related to an Alcoholic Beverage Sales Commercial Activity does not specifically address the characteristics noted above. While most typical “restaurants” don’t advertise as having “bottle service”, they do have often have a cocktail menu, wine/champagne list, and after dinner drinks and ordering a “bottle” would not be unusual especially for a larger party.

According to the Applicant, the “events” and ticket sales are similar to a restaurant hosting a private party or sponsoring an event and are intended to get attendance at the restaurant and ensure patrons have seats similar to a reservation. There is no prohibition in the Planning Code on charging for such events. Furthermore, these “events” usually occur during holidays or once a month. Flyers are intended as marketing and branding for the restaurant and to draw customers into the restaurant by possibly being circulated through social groups. Again, there are no Planning Code restrictions on marketing materials, a set time-frame for a dinner reservation, having a dress code, special seating areas, table height, lighting or hours of operation. Per the Appellant, on evenings when the establishment is open until 1:30 am, the kitchen is open until 12 am. This is also typical of a restaurant when the the kitchen will close at a certain time, but the business is still open for customers to finish their meals and or drinks. Finally, staff has never asked for receipts pertaining to sales related to restaurants and even if we did the alcohol service would largely cost more than the meal.

Documentation has also been provided regarding excess noise both during the day and into the evening. Code Enforcement and the City Administrator’s Municipal Code Enforcement Officer have visited the site multiple times during various times of operation. Staff have taken noise measurements and compared those measurements to the City’s Noise Performance Standards and the Noise Ordinance. Staff found that the business had not exceeded the City’s Performance Standard requirements in several instances. On other site visits, staff could not confirm whether the source of the noise was Mimosa on Grand or another establishment as there are several businesses with parklets on this stretch of Grand Avenue and a cabaret/bar is located only several doors down the street. Oakland Police Department personnel have also been to the site and citations were issued (**Attachment D**). However, this issue in and of itself does not determine the land use activity. These are on-going standards, and all businesses must continue to meet the decibel levels, otherwise enforcement and citations will continue to take place. Thus, there are already protections in place to protect the public health, safety and welfare from any potential noise impacts.

**Staff has concluded that the business is operating as a Full-Service Restaurant and a Conditional Use Permit is not required, based on the facts that the business: (1) has a full kitchen with kitchen staff and substantial menu; (2) serves food plated at tables for largely the entire time the business is open; and (3) is**

permitted to operate as a Full-Service Restaurant Commercial Activity under the Planning Code while allowing the service of alcohol as accessory to the restaurant. As to this last consideration, we note that most Full-Service Restaurants in the City serve alcohol as accessory to the restaurant. We find no persuasive evidence why staff should treat this business any differently.

Further, it appears from the evidence that the neighbors to this business feel impacted by noise. In response to this issue staff recognizes that: (1) the City's Noise Performance Standards protect residents from noise impacts and (2) there are several other businesses along Grand Avenue that are contributing to any perceived noise impacts -- to hold this business singularly accountable would appear to result in unfair and disparate treatment of one business. Given the above, staff will continue to monitor the noise levels in this area of Grand Avenue, and issue any enforcement notices on any business who is found to exceed the City's Noise Performance Standards.

The Zoning Manager's Determination regarding an Appeal of Major Zoning Violation Code Enforcement as well as the exception made under Planning Code Section 17.33.050 and Table 17.33.03 Limitation 9 do not require public notice.

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten (10) calendar days from the date of this letter, by **4:00 p.m. on August 22, 2022**. An appeal shall be on a form provided by the Bureau of Planning of the Planning and Building Department, and submitted via email to: (1) **Robert Merkamp, Zoning Manager**, at [Rmerkamp@oaklandca.gov](mailto:Rmerkamp@oaklandca.gov), and (2) Catherine Payne, Development Planning Manager, at [Cpayne@oaklandca.gov](mailto:Cpayne@oaklandca.gov). The appeal form is available online at <https://www.oaklandca.gov/documents/appeal-application-form>. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Manager or decision-making body or wherein the decision is not supported by substantial evidence. Applicable appeal fees in the amount of **\$2,476.31** in accordance with the City of Oakland Master Fee Schedule must be paid within five (5) calendar days (**August 29, 2022**) of filing the appeal.

If the fifth (5th) calendar day falls on a weekend or City holiday, appellant will have until the end of the following City business day to pay the appeal fee. Failure to timely appeal (or to timely pay all appeal fees) will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter. For further information, see the attached Interim City Administrator Emergency Order No. 3 and Interim Procedures for Appeals of City Planning Bureau Decisions for Development Projects (**Attachment E**).

If you have further questions regarding this matter, please contact me at (510) 381-5312 or [rmerkamp@oaklandca.gov](mailto:rmerkamp@oaklandca.gov).

Sincerely,



Robert Merkamp  
Zoning Manager

**Attachments:**

- A. Appeal Documents
- B. Notice of Violation

- C. Floor Plan Photo
- D. OPD citations
- E. Interim City Administrator Emergency Order No. 3 and Interim Procedures for Appeals of City Planning Bureau Decisions for Development Projects.

cc: William Gilchrist, PBD Director [wgilchrist@oaklandca.gov](mailto:wgilchrist@oaklandca.gov)  
Ed Manasse, PBD Deputy Director [emanasse@oaklandca.gov](mailto:emanasse@oaklandca.gov)  
Ricardo Salas, City Administrator's Office [rsalas@oaklandca.gov](mailto:rsalas@oaklandca.gov)  
Chris Candell, Code Enforcement [ccandell@oaklandca.gov](mailto:ccandell@oaklandca.gov)  
Jennifer Sena, OPD [JJSena@oaklandca.gov](mailto:JJSena@oaklandca.gov)  
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CITY OF OAKLAND

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Planning and Building Department  
Bureau of Building  
Code Enforcement Services  
[www.oaklandca.gov](http://www.oaklandca.gov)

(510) 238-3381  
TDD: (510) 238-3254  
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## APPEAL FORM

### Instructions:

If you have received a Notice of Violation (NOV) related to Building Code or Zoning violations, you have the right to appeal. Major Zoning violations must be appealed separately from Building Code, Minor Zoning, Blight and Graffiti Violations (as identified on the NOV). Please review the NOV and indicate below the violations you are appealing.

Complete this form and return it, along with the required filing fee and supporting documentation, to the Bureau of Building, at 250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor, Cashiering, Oakland, CA 94612. Appeals forms may be submitted in person or by mail but must be received by the Bureau of Building no later than the **Deadline to Respond** identified on the Notice of Violation. Appeals Forms submitted without the required Filing Fees will be rejected.

All future correspondence pertaining to this appeal will be sent via email only unless you have indicated below that you do not agree.

Filing Date:	<input type="text" value="4/11/2022"/>	Complaint No.	<input type="text" value="2106266"/>
Property Address:	<input type="text" value="3320 GRAND AVENUE"/>	APN	<input type="text" value="011083603300"/>
Name of Appellant:	<input type="text" value="CHRIS RACHAL"/>		
Appellant Mailing Address:	<input type="text" value="3320 GRAND AVENUE"/>		
Phone Number:	<input type="text" value="510 314 9658"/>	Email Address:	<input type="text" value="MIMOSA2OAKLAND@GMAIL.COM"/>
Property Owner: (if different)	<input type="text" value="CRAWFORDSCHARSCHMIDT LLC"/>	Phone Number:	<input type="text" value="(510) 763-7016"/>
Property Owner Mailing Address:	<input type="text" value="C/O LCB ASSOCIATES 388 17TH ST #200 OAKLAND, CA 94612"/>		
Property Owner Email Address:	<input type="text" value="JOHN@LCBASSOCIATES.COM"/>		
Representative/ Attorney (if any)	<input type="text"/>	Phone Number:	<input type="text"/>
Representative's Mailing Address:	<input type="text"/>		
Representative's Email Address:	<input type="text"/>		

NON-ATTORNEY REPRESENTATIVES MUST PROVIDE NOTARIZED AUTHORIZATION



☐ *I do not agree to receive future correspondence pertaining to this appeal by email.*

**Appeal Type:** (Check the appropriate box)

- ☐ **Property Blight** (*trash, debris, overgrown vegetation, graffiti, etc.*)  
☐ **Building Maintenance** (*unpermitted work, no heat, water, undocumented units, landslides, drainage etc.*)  
☐ **Minor Zoning** (*e.g., unpermitted window, roofing changes; fencing height, unpermitted expansions, etc.*)  
☒ **Major Zoning** (*unpermitted activity; change of use; unpermitted units; expansion of non-conforming uses, etc.*)

### How to Appeal:

Complete and submit this form, along with all required filing fees, to the Bureau of Building no later than the **Deadline to Respond** indicated in the Notice of Violation. The **Deadline to Respond** shall be twenty-one (21) days except in cases involving danger or imminent hazard, in which case the deadline to Respond shall be seven (7) days.

You must provide all information required by this appeal form including responding to the requests at the top of page 3. If you are appealing a **Major Zoning Violation** you should explain a) why the use of your property conforms to the zoning designation for the property or b) why the activity should be approved as set forth in Planning Code, Title 17.

	<b>Appeal Type:</b>	<b>Filing Fee</b>
Category 1	Building Code, Minor Zoning, Blight and Graffiti Violations	\$110.00
Category 2	Major Zoning Violations (zoning determination)	\$473.92

If you are appealing both Category 1 and Category 2 Violations, you must pay **both** filing fees. If you are filing an appeal after the deadline to respond, explain why your appeal is past the deadline and why it should still be considered. Failure to adequately explain untimely filing may result in the appeal being summarily dismissed without a hearing.

### Category 1 Appeals Process:

Appeals of Building Code, Minor Zoning, Blight and Graffiti Violations will be reviewed administratively by staff who may grant the appeal without a hearing. If staff does not grant the appeal, a hearing will be scheduled before an Independent Hearing Officer within 60 days, unless you waive the right to the hearing following administrative review. If the Independent Hearing Officer grants your appeal, you will not be charged for the hearing. If the Hearing Officer denies your appeal, you must abate the violations and pay all administrative costs for the hearing as follows:

#### Administrative Hearing Fees

Actual Cost to Conduct Appeals Hearing  
\$931 Processing Fee + \$150 per hour Hearing Officer fee

Costs include:

- Review of Evidence
- Conducting the Hearing
- Final Decision Preparation
- Parking and Postage costs

-Records Management and Technology Enhancement fee (14.75%)

**Fees charged only if Appellant loses appeal**

Notice of the date, time, and place of hearing will be sent to the appellant and the property owner by email and or mail at least 14 days prior to the hearing. At the hearing, you may present evidence and testimony to support your appeal.

Decisions of the Independent Hearing Officer regarding Blight and Graffiti are final and may only be appealed in court.

Decisions of the Independent Hearing Officer regarding violations identified under the Oakland Municipal Code Chapter 15.04, 15.08 or the California Model Building Construction Code may be appealed to an Appeals Board within fourteen (14) days by following the procedures set forth in Oakland Municipal Code 15.04.1.125G. Appeals not filed in a timely manner will be rejected.



## Category 2 Appeals Process:

Appeals of Major Zoning Violations are routed to the Zoning Manager for a Major Zoning Determination.

The Zoning Manager will issue a written decision within 45 days from the end of the appeal period. The Major Zoning Determination fee is not refundable once the decision has been issued, regardless of outcome. Decisions of the Zoning Manager are final unless appealed to the Planning Commission within 10 days from the written decision. Appeals not filed in a timely manner will be rejected.

Please respond to all of the following:

- Briefly identify your legal interest in the property.
- Briefly identify which of the enforcement actions by the City you are appealing.
- Briefly identify how the City has erred or abused its discretion in bringing this action.
- Briefly identify how you want the City to resolve your appeal.

You may use this form to write your explanation and/or attach supplemental pages as needed.

PLEASE SEE ATTACHED

I Declare under Penalty of Perjury that the information given herewith in all respects is true and accurate to the best of my knowledge and belief.

Chris Rachal 4/11/22  
Appellant Signature Date

\_\_\_\_\_  
Representative Signature Date

CHRIS RACHAL  
Print Name Clearly

\_\_\_\_\_  
Print Name Clearly

### Office Use Only

Record ID(s): \_\_\_\_\_ Administrative Reviewer(s): \_\_\_\_\_

Receive Date: (Stamp) \_\_\_\_\_



3320 GRAND AVENUE • OAKLAND • CA 94610 • mimosa2oakland@gmail.com

April 11, 2022

City of Oakland  
**Planning and Building Department**  
250 Frank H. Ogawa Plaza  
Suite 2349  
Oakland, CA 94612-2031

To whom it may concern,

This letter serves as our formal appeal to the **Notice of Violation dated 3/22/2022 Code Enforcement Case Number 2106266**. According to the notice, your department believes that we are not operating as a Restaurant and selling Alcoholic Beverages in a zone where this is not permitted without a Conditional Use Permit (CUP).

1. **Under code 17.114.030 - B. Alcoholic Beverage Control Licenses. Notwithstanding the provisions of the nonconforming use regulations, said provisions shall not apply to the extent that they would preclude the exercise of the same rights and privileges as those conferred by a valid state of California Alcoholic Beverage Control license for premises which had been used in the exercise of such rights and privileges at a time immediately prior to the effective date of the applicable provisions of Section 17.102.210. For the purposes of this Subsection, the word "premises" shall mean and include only the actual space within a building devoted to the sale of alcoholic beverage. (Prior planning code § 7402) 17.114.040 - Right to continue nonconforming use, subject to limitations. A. Right to Continue. A nonconforming use which is in existence on the effective date of the zoning regulations or of any subsequent rezoning or other amendment thereto which makes such use nonconforming, and which existed lawfully under the previous zoning controls, or which is subsequently developed or changed pursuant to Section 17.114.030, may thereafter be continued and maintained indefinitely, and the rights to such use shall run with the land, except as otherwise specified in the nonconforming use regulations. However, no substitution, extension, or other change in activities and no alteration or other change in facilities is permitted except as otherwise provided in Section 17.114.030 and except as specifically provided hereinafter. B. Right to Continue Nonconforming Auto and Truck Related Activities in All Districts. As used regarding all such nonconforming auto and truck related activities, the word "activity" refers solely to the unique function or operation occurring on the affected property and does not refer to any other activity within an activity type with which that activity is grouped. Any right to substitute, extend or alter an existing auto or truck related activity refers solely to the specific existing function or operation, and does not provide any right to substitute, extend or alter that activity with any other type of activity within the activity type with which the activity is grouped. (Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. 12368 § 3, 2001: prior planning code § 7403)**



The previous tenant at 3320 Grand, Aisle 5, sold alcohol without a CUP. Based on the above planning code we are not in violation and are not required to have a CUP.

Mimosa on Grand is a full-service restaurant. Mr. Chris Candell, the inspector conducted his investigation on Thursday, January 20, 2022, at the time, we were closed on Thursdays, so it is unclear how the final determination was made. Mr. Candell also inspected our restaurant on December 1, 2021, and found no violations.

Is it standard practice for the City of Oakland's zoning inspectors to reinspect a business with no violations in less than two months? We are trying to understand why the inspector "conducted" a second inspection when he signed off just seven weeks prior. What prompted the second inspection? There are no clear answers, and we are feeling targeted. We are one of the few Black owned businesses in the Grand Lake business district.

When we spoke with Mr. Candell the week of March 28, he shared that part of the determination was because we are not open for lunch, even though we are open for brunch on weekends. Our neighbors, Almond & Oak, The Alley, Mijori Japanese Grill and Shogun Japanese Grill are closed for lunch during the week. (Like us, Almond & Oak is also open on the weekends for lunch.) Below is an abbreviated list of more restaurants in Oakland that are not open for lunch that also serve alcohol, have they been issued violations as well?

Blind Tiger	Millennium	Marcia
Shakewell	Hop Scotch	Shinimai
Mua	Mago	Palmetto
A16	Mama Oakland	Marzano
Noodle Theory	Commis	Bilancio
A Cote'	Ala Mar	Jo's Modern Thai
Ramen Shop	Saucy	

As a full-service restaurant, we have a dedicated staff of no less than 12 food service employees that include chefs, handlers, servers, and dishwashers.

Our hours are as follows:

Thursday 5pm-11pm

Friday 5pm-1:30am (kitchen open until 12am)

Saturday 2pm-1:30am (kitchen open until 12am)

Sunday 12pm-5pm

Our current dedicated kitchen staff:

Kenneth Wynn, Executive Chef

Willette Battle, Sous Chef

Sonia Porter, Sous Chef

Jairi Earring, Line Cook

Yanni Valley, Line Cook

Tamiko Ayalla, Server

Janae Cobb, Server/Hostess

Sara Collins, Server

Bemnet Demessie, Server

Kaelyn Holmes, Server

Ashlee Rosa, Server

Ja'Mes Williams, Server/Hostess



We opened our restaurant in the middle of the pandemic and like most hospitality businesses across the country, we are adapting to life in the new normal. With that in mind, we evaluated our business model and determined that opening for lunch Monday-Friday would be detrimental to our bottom line. We consistently evaluate trends and how companies in the area are handling return to work for employees. If lunchtime demands change, we are ready and willing to expand our hours of operation.

In October 2021, an anonymous noise complaint was filed with several agencies. Upon receipt of the complaint, Officer Jennifer Sena of Alcohol Beverage Action Team, informed the complainant in writing that there were four separate investigations conducted and all concluded that the noise was not coming from Mimosa on Grand (see appendix A). The complainant, now identified as Noelle Duong, proceeded to contact over 40 agencies with an inflammatory letter with complaints against Mimosa on Grand despite the findings of the investigation. It seems that Ms. Duong's accusations, spurred the formal investigation by Ricardo Salas, Municipal Code Inspector and Greg Minor, Assistant City Administrator. Mr. Salas conducted his investigation from October 21-December 4, 2021 and determined that there were no violations including cabaret activity. Mr. Candell was one of the inspectors involved in the thorough investigation on December 1, 2021. At that time, his report cleared Mimosa on Grand of any violations. What has changed in that time to determine that Mimosa on Grand is not a full-service restaurant?

As you know, it is very difficult to open and run a restaurant. Especially in the middle of a global pandemic and moving into the recovery phase that the country is currently in. During a booming economy, restaurants are high risk businesses, the risk is heightened during a time of economic instability. We took the risk and very happy we did. There are several obstacles and difficulties that we face daily - staffing, marketing, and normal operations. With Covid-19 we had to think outside the box when it came to the direction we wanted to go with our restaurant. However, we could not have anticipated what is feeling like targeted harassment...what started as an unfounded and unsubstantiated noise complaint has grown to an alleged major zoning violation. It is odd given all the scrutiny of a four-month investigation with more than 20 visits from various inspectors, that it would take that long to determine that we are not operating as a full-service restaurant.

Mr. Candell said that he used our marketing material to aid in his determination that Mimosa on Grand is not a full-service restaurant, while it is not a requirement for us to explain how we market our business, we will share that we are **not** marketing like they did in the 70's, 80's or even the 90's. We are not promoting special events, parties, or a nightclub. Our style of marketing is trendsetting, cutting edge and effective. Unlike other restaurants, we do not simply market food, we market location, food, service, cocktails, esthetics, staff, Instagram worthy moments, celebration, vibe dining and most importantly, fun. We are not just selling food; we are selling everything mentioned above. Oakland selectively prides itself on the "secret sauce" of diversity and we are fully leaning into that with up to date, current marketing strategies...the city should too. Maybe the city should hire some younger inspectors that are a bit more in touch with new ideas, everything does not fit into one or two boxes.

For decades until as recent as this past November, the Piedmont area of Oakland has had a history of systematic racism and has frowned upon the inclusion of African Americans (see appendix B). In a recent real estate advertisement in the Nob Hill Gazette, known as a publication for San Francisco's social elites, one Piedmont advertiser wrote: "The city is surrounded by Oakland but is worlds apart. Among its 11,270 residents, 74.5 percent are white" to attract home buyers. This sort of dog whistle is nothing new for Piedmont.

In 2020, a group of Piedmont residents started a nonprofit organization called Piedmont Anti-Racism and Diversity Committee, but that didn't stop the agent from sharing those stats as a point of pride to increase sales.

These complaints and the ongoing exhaustive investigations are nothing more than a racially charged attempt to keep the Piedmont area rid of diversity and "worlds apart" from the rest of Oakland. Any noise in the area, it must

be the Black people. Any loitering in the area, it must be the Black people. Any laws or city ordinances being broken in the area, it must be the Black people...when does the blatant racism end? What's it going to take? A discrimination lawsuit? A civil rights lawsuit? Defamation of character lawsuit? A loss of revenue lawsuit?

We are natives of Oakland and love our city. We are taxpaying business owners with more than 25 years' experience. Throughout our entrepreneurial journey, we have employed over 200 Oakland natives and residents. We are fully invested in our community.

Respectfully,

Chris Rachal and Jeff Surratt  
Owner and Operators, Mimosa on Grand



Hi Chris,

APPENDIX A

Thought the below email might be of concern for you. See below.

Best,

Ofc Jennifer Sena

From: Salaverry, Lia, Azul <LSalaverry@oaklandca.gov>

Sent: Tuesday, December 28, 2021 3:08 PM

To: grandaveoakland@gmail.com <grandaveoakland@gmail.com>; hristianwhill@gmail.com <christianwhill@gmail.com>; poormojo@gmail.com <poormojo@gmail.com>; Eileen Morentz <emorentz@sbcglobal.net>; fitnessguru2019@outlook.com <fitnessguru2019@outlook.com>; kennymichael2002kw@gmail.com <kennymichael2002kw@gmail.com>; residentoakland98@gmail.com <residentoakland98@gmail.com>; edgarjimenz510@gmail.com <edgarjimenz510@gmail.com>

Cc: grandaveoakland@gmail.com <grandaveoakland@gmail.com>; Minor, Gregory <GMinor@oaklandca.gov>; Inspection Counter <bbcode-inspect@oaklandca.gov>; Fortunato Bas, Nikki <NFortunatoBas@oaklandca.gov>; Kang, Tiffany <TKang@oaklandca.gov>; Salas, Ricardo <RSalas@oaklandca.gov>; katrina.johnson@abc.ca.gov <katrina.johnson@abc.ca.gov>; Sena, Jennifer <JJSena@oaklandca.gov>; InspectionInfo <InspectionInfo@oaklandca.gov>

Subject: Re: Resident Concerns Re: Mimosa 2 Oak at 3320 Grand Ave

Hello all,

We appreciate you raising these concerns to City staff.

I recently spoke with the Municipal Code Enforcement staff who have been investigating this location, and they informed me that they have visited four separate times. They informed me that there was loud music coming from a location several doors down, at 3362 Grand Ave at a nearby bar.

Staff is working with both locations, M2 and the bar, to address the noise issues and bring them into compliance with the city's rules.

Please let us know if you have additional questions or concerns we can assist with.

Thank you,

Best,

Lia Azul Salaverry  
 District Director & Policy Advisor  
 Council President Nikki Fortunato Bas  
 City of Oakland, District 2  
 lsalaverry@oaklandca.gov

Pronouns: she, her, ella (what is this?)

Resource Pages  
 COVID-19 Updates  
 Eviction Moratorium

Subscribe to Council President Bas' newsletter.  
 Visit her City of Oakland website.  
 Follow on Facebook, Twitter, or Instagram.

From: Grand Ave Residents <grandaveoakland@gmail.com>

Sent: Monday, December 13, 2021 5:52:23 PM

To: Minor, Gregory <GMinor@oaklandca.gov>; Inspection Counter <bbcode-inspect@oaklandca.gov>; Fortunato Bas, Nikki <NFortunatoBas@oaklandca.gov>; Kang, Tiffany <TKang@oaklandca.gov>; Salas, Ricardo <RSalas@oaklandca.gov>; katrina.johnson@abc.ca.gov <katrina.johnson@abc.ca.gov>; Sena, Jennifer <JJSena@oaklandca.gov>; InspectionInfo <InspectionInfo@oaklandca.gov>

Cc: christianwhill@gmail.com <christianwhill@gmail.com>; poormojo@gmail.com <poormojo@gmail.com>; emorentz@sbcglobal.net <emorentz@sbcglobal.net>; fitnessguru2019@outlook.com <fitnessguru2019@outlook.com>; kennymichael2002kw@gmail.com <kennymichael2002kw@gmail.com>; residentoakland98@gmail.com <residentoakland98@gmail.com>; edgarjimenz510@gmail.com <edgarjimenz510@gmail.com>

Subject: Resident Concerns Re: Mimosa 2 Oak at 3320 Grand Ave

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi all,

Thank you for your efforts to support us grand lake residents (cc'd) to resolve the quality of life concerns created by M2 at 3320 grand ave. M2 has been consistently loud since moving to the neighborhood in August. They operate on Friday and Saturday until 2am and violate the city noise ordinance consistently. Please see the details below regarding our observations and the city zoning,



noise, and ABC license requirements we would like enforced. Please take the 3 actions below that will offer a long term solution to encourage M2 to be a good neighbor and abide by the requirements needed to operate as a restaurant in compliance with their permits and the city zoning laws.

Action #1: Please investigate and document that they are in fact operating as an establishment focused on alcohol sales which is not in compliance with the type 47 (restaurant) license and their city permitted use, please see below.

M2 has a city permit (attached) and ABC liquor license (here) to operate as a restaurant. The city's definition of a restaurant is clear as is the ABC liquor license requirement for a type 47 license for restaurants.

Please audit M2's sales to verify that their liquor sales do not exceed 40% of their total sales. According to the definitions of "restaurant" they need to serve meals during meal time and the definition is clear that appetizers are not considered meals. Please note that M2 only offers meals on Sunday aside from that during most of their operations (Friday and Saturday from 8pm-2am, not standard meal time) they serve only alcohol and appetizers.

We encourage you to also look at the owner and M2's social media in addition to the photos provided in the city administrator's office courtesy notice (attached). They host events with live DJs and amplified music which is when we experience the most noise.

Please see the videos attached for evidence that they operate as a nightclub. In the video titled M2 nightclub operations evidence there is not a single person eating a meal and 12.12.21 excessive noise evidence video shows how loud it is across the street from their venue. Please note that 12/12/21 was a work night and the other bar on the block was closed so the noise was only coming from M2 and they continued to be loud past 2AM)

We have additional videos featuring how noisy they are but the files are too large to send via email. The noise issues are a regular occurrence.

Action #2: After establishing for the record that they operate as a bar/ nightclub focused on alcohol sales not food please revoke their current liquor license and mandate that they go through the permitting process for a type 48 liquor license.

The law states that "Illegal activity means an activity which has been finally determined to be in noncompliance with the Deemed Approved performance standards in Article III of this Chapter. Such an activity shall lose its Deemed Approved Status and shall no longer be considered a Deemed Approved Activity"

Action #3: Enforce the city zoning requirements that are in place to regulate alcohol sales. The city zoning does not allow for 3320 Grand Ave to be used as a bar or nightclub. Please deny any future permit applications to operate a bar/nightclub at 3320 grand ave.

3320 Grand Ave where M2 is located is zoned for CN2, in this area alcoholic beverage sales are NOT an as of right use, conditional use authorization is required.

Code 17.103.030 makes it clear that M2's operations do not comply with the conditional use requirements to operate a bar/nightclub on Grand Ave. Listed below are the city code requirements



that need enforcement. Currently none of these requirements are being met.

17.103.030 A3 - "That the proposal will not interfere with the movement of people along an important pedestrian street"

(Note: There are double parked cars in the travel lane during their business hours and their deliveries happen in the travel lane as well see photos attached. In addition, there have been motorcyclists driving and parking on the sidewalk. This was not an issue before M2 began operating. This is a concern for pedestrians, cyclists, and emergency vehicle access.)

17.103.030 A7 - "That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of 10:00 p.m. and 7:00 a.m."

(Note: M2 operates until 2am, the venue is not sound proofed, they play amplified music, and are violating the noise ordinance consistently. The attached video is a sample of the noise we are experiencing. Please remember the video is recorded on a cell phone and the noise is much louder in person.)

17.103.030 B1 - "No Alcoholic Beverage Sales Commercial Activity or sale of alcoholic beverages shall be located closer than one thousand (1,000) feet to any other establishment selling alcoholic beverages measured between closest building walls"

(Note: The Libertine located at 3332 Grand Ave was there before M2 and is 66 feet away according to google maps, see attached)

17.103.030 B2b - "That the overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh anticipated negative impacts, and that will not result in a significant increase in calls for police service"

(Note: They are typically closed during the business hours of the other local shops, they are taking up space that otherwise could be activated during the typical business hours of the block. They are essentially a vacant storefront outside of their bar/nightclub hours of operation. The impact they are having on immediate neighbors is creating conditions that prevent us from sleeping. Also their customers are peeing on the sidewalk and neighboring buildings and as mentioned above they are double parking in the travel lane.)

#### FOR REFERENCE:

17.103.030 - Fast-Food Restaurant and Convenience Market Commercial Activities, and Establishments Selling Alcoholic Beverages.

SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD (DOCX) OF SECTIONSEMAIL  
SECTIONCOMPARE VERSIONS

A. Use Permit Criteria for Fast-Food Restaurants, Convenience Markets, and Establishments Selling Alcoholic Beverages. A Conditional Use Permit for any conditionally permitted Fast-Food Restaurant, Convenience Market, or Alcoholic Beverage Sales Commercial Activity may be granted



only upon determination that the proposal conforms to the general use permit criteria set forth in the Conditional Use Permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria: 1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems of crime and loitering, and traffic problems and capacity; 2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds; 3. That the proposal will not interfere with the movement of people along an important pedestrian street; 4. That the proposed development will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area; 5. That the design will avoid unduly large or obtrusive Signs, bleak unlandscaped parking areas, and an overall garish impression; 6. That adequate litter receptacles will be provided where appropriate; 7. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of 10:00 p.m. and 7:00 a.m.; 8. That proposals for new Fast-Food Restaurants must substantially comply with the provisions of the Oakland City Planning Commission "Fast-Food Restaurant—Guidelines for Development and Evaluation" (OCPD 100-18).

**B. Special Restrictions on Establishments Selling Alcoholic Beverages.**

1. No Alcoholic Beverage Sales Commercial Activity or sale of alcoholic beverages shall be located closer than one thousand (1,000) feet to any other establishment selling alcoholic beverages measured between closest building walls, except: a. On-sale retail licenses located in the Central District (defined for the purposes of this Chapter only as within the boundaries of 1-980 and Brush street to the west; both sides of 27th Street to the north; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south); or b. Off-sale retail licenses located in the Jack London District (defined for the purposes of this Chapter only as within the boundaries of Martin Luther King Jr. Way to the west, I-880 to the north; the Lake Merritt Channel to the east; and the Estuary to the south); or c. If the activity is in conjunction with a Full-Service Restaurant or Limited-Service Restaurant and Cafe Commercial Activity; or d. Establishments with twenty-five (25) or more full time equivalent (FTE) employees or a total floor area of twelve thousand (12,000) square feet or more; or e. If the activity is in conjunction with the on-sale and/or off-sale of alcoholic beverages at an alcoholic beverage manufacturer: i. For the purposes of this Chapter only, an "alcoholic beverage manufacturer" means a Custom or Light Manufacturing Industrial Activity producing alcoholic beverages as a principal activity, with a State of California Department of Alcoholic Beverage Control (ABC) license type that includes, but is not limited to, a Type 02 (Winegrower) or Type 23 (Small Beer Manufacturer). The ABC license type shall not consist solely of a bar or liquor store license type, such as a Type 48, 20, or 21. The on-sale and/or off-sale of alcoholic beverages at such an alcoholic beverage manufacturer are excluded from the definition of Alcoholic Beverage Sales Commercial Activities, as specified in Section 17.10.300. ii. The sale of alcoholic beverages at an alcoholic beverage manufacturer is only permitted upon the granting of a



Minor Conditional Use Permit (CUP), regardless of whether such Custom or Light Manufacturing Industrial Activity is otherwise allowed by right in the underlying zone (see Chapter 17.134 for the CUP procedure). iii. Also, no additional CUP findings are required, regardless of whether such sale of alcoholic beverages at an alcoholic beverage manufacturer meets normally required separation requirements, and/or is located in an over-concentrated area. 2. In addition to the criteria prescribed elsewhere in the zoning regulations, a land use permit for an Alcoholic Beverage Sales Commercial Activity located within an Alcoholic Beverage Sales license over concentrated area shall only be granted, and a finding of Public Convenience or Necessity made, if the proposal conforms to all of the following criteria: a. That a community need for the project is clearly demonstrated. To demonstrate community need, the applicant shall document in writing, specifically how the project would serve an unmet or underserved need or population within the overall Oakland community or the community in which the project is located, and how the proposed project would enhance physical accessibility to needed goods or services that the project would provide, including, but not limited to alcohol; and b. That the overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh anticipated negative impacts, and that will not result in a significant increase in calls for police service; and c. That alcohol sales are customarily associated with, and are appropriate, incidental, and subordinate to, a principal activity on the lot.



**Salas, Ricardo**

**Subject:** FW: Muni Code Report 3320 Grand Avenue  
**Attachments:** Planning and Zoning Information Viewer.pdf; Accela Automation.pdf; AdapterToReportViewer.pdf; Flex Streets Permit for Parklet 4 20 2021.pdf; Zoning Clearance for Full Service Resturant on 7 27 2021.pdf; [REDACTED] 2021\_site\_visit.pdf; 11\_29\_Site\_Visit.pdf; 12\_3\_2021\_Site\_Visit.pdf; 10\_1\_2021\_Site\_visit.pdf

**From:** Salas, Ricardo  
**Sent:** Thursday, December 9, 2021 7:49 AM  
**To:** Minor, Gregory <GMinor@oaklandca.gov>; Marcus, Nancy <NMarcus@oaklandca.gov>  
**Subject:** Muni Code Report 3320 Grand Avenue

Hi Greg,

Staff is reporting findings during the site visits. Below, I summarize the site visits conducted at 3320 Grand Avenue DBA M2.

**Reason for site visit:** Complaint regarding a possible unpermitted cabaret and loud noise.  
**DBA :** Memosa 2 (M2)  
**Location :** 3320 Grand Avenue  
**Parcel Information :** 011 083603300  
**Parcel Zoning Type:** CN-2  
**Currently zoned:** Zoning clearance for Full-Service Restaurant Mimosa on Grand on 7/27/2021

**Inspection and site visit dates:**

- **October 1, 2021**
- 1:52pm
- City Staff:
  - Ofc Jennifer Sena (OPD ABAT Unit)
  - Ricardo Salas (Special Activities Division)
- Educational Site visit with OPD (ABAT unit) and Special Activities regarding Cabaret's and noise standards
  - No unpermitted equipment was found during the site visit
  - DJ booth, seats, chairs, and restaurant/bar equipment
- **October 16, 2021**
- 8:27pm and 9:55pm.
- City Staff: Ricardo Salas—Special Activities Division
- Reason for site visit: Investigate and report the source of the noise and cabaret operations in the area.
  - Commercial noise was coming from 4 establishments, e.g., bars and restaurants
  - Not possible to determine the exact location of the noise.
  - A follow up visit is needed
- **November 29, 2021**
- Time: 11am
- City Staff:
  - Miguel Villanueva Fire Prevention,
  - Chris Candell—Planning and Zoning,

- Ricardo Salas—Special Activities Division.
- Reason for site visit: Compliance with city safety and noise standards (acoustics)
- Quick Notes on Fire Prevention and Planning and Zoning Department compliance results:
  - Planning and Zoning Results
    - Noise Investigation Results (*AdapterToReportView*)
    - No violations found during the site visit.
  - Fire Prevention
    - General Assembly permit is current [REDACTED]
    - No violations found during the site visit
- Late night site visit is required to determine noise and cabaret operations from the 3300 block of Grand Avenue
- **December 3, 2021**
- Time: 7:21pm, 11:08pm and 12:01am (December 4<sup>th</sup> morning)
- Reason for site visit: Confirm where the noise is originating from and to verify that no establishments operating as a cabaret.
- Staff at 7:21pm—Ricardo Salas (Special Activities Division)
  - **Noise:** During the site visit there was commercial noise coming from all the surrounding business on 3300 block of Grand Avenue
  - **Cabaret:** No visual indications of a cabaret operation coming from M2 (see photos)
  - **Parking:** Double parking in front of M2 and The Libertine Bar
  - **Follow up needed later in the evening**
- Staff at 11:08am—Ricardo Salas (Special Activities Division)
  - Noise: During my site visit, I stopped at the corner of Elwood Avenue and Grand Avenue ( 3363 Grand Avenue)
    - I could hear the lows (bass) and very low highs
    - Video was taken—audio was not clear
    - I drove and parked in front of 3320 Grand Avenue to narrow down the source of the noise
      - 3320 had two speaker (High tweeter but no bass—see photos) in the parklet
      - I could not hear the bass coming from this location
    - I then followed the bass to 3332 Grand Avenue (the Libertine Bar)
      - No photographs, safety issue (intoxicated patrons)
      - I spoke with the security guard (handed him my business card) in front of the location and asked for the manager or site representative
      - When walking in, I saw a live DJ and patrons dancing
      - The music was extremely loud (bass originated from this location)
      - He then walked me to the bar, and I spoke with the bartender (I could not hear her name over the music)
      - The bartender and I walked outside to speak. The music was extremely loud inside
      - I asked her if this establishment had a cabaret permit (city records show no), she said yes. I let her know that my office has no record of a cabaret permit being issued to this location. She mentioned it was a birthday party.
      - I asked her to turn the music down (she did) and that our office will be in contact regarding a cabaret permit (Courtesy letter was mailed on 12/8/2021)
      - I was notified by a resident that the music was turned up after I left the location
- Staff at 12:01am (12/4/2021 Saturday morning)—Moises Campos and Ricardo Salas (Special Activities Division)
  - After staff returned to the location, we could confirm that the music (bass—lows) was coming from 3332 Grand Avenue (the Libertine Bar)
  - 3320 Grand Avenue (M2) we could confirm the tweeter music coming from the parklet (two speakers outside—see photos)
    - The tweeters were low, but I could not hear the loud music coming from within the establishment.
  - 3332 Grand Avenue (the Libertine Bar) staff confirmed the bass coming from this location.

## Conclusion:



- Staff confirmed that 3332 Grand Avenue was operating as a cabaret on 12/3/2021
- Staff confirmed that 3320 Grand Avenue will need to either gain a sound permit for the two small speakers on the parklet or remove them. Staff could not confirm that a cabaret was operating at this location.
  - *I believe the owner has applied for a cabaret permit. (Mrs. Marcus has more information)*
- Double parking originates from these two locations. Parking enforcement will need to follow up between the hours of 10pm-2am on Friday and Saturday nights, if staff is available.
- Included is the property owner's private information (attachments)

**Attachments:**

- Planning and Zoning Information (copy of zoning type)
- Flex Streets parklet permit information (copy)
- Zoning clearance for Full Service Restaurant (copy)
- Planning and Zoning Report regarding the noise measurements during the afternoon (copy)
- Accela Information (copy)

• [REDACTED]

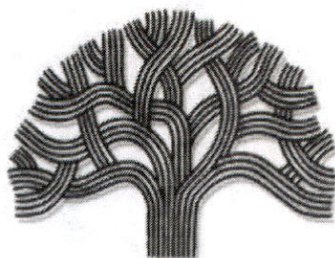
• [REDACTED]

Thank you and please be safe!

Ricardo Salas  
 Special Activity Permits Division  
 1 Frank H. Ogawa Plaza, 11<sup>th</sup> Floor  
 Oakland, CA 94612  
 Phone: (510) 238-4754  
 Cell: (510) 913-7028  
[Rsalas@oaklandca.gov](mailto:Rsalas@oaklandca.gov)



Update Results



CITY OF OAKLAND

Record Detail with Inspection Log

**Record ID: ZC210534****Description: Zoning Clearance for Full Service Restaurant Mimosa on Grand**

APN: 011 083603300

Address: 3320 GRAND AVE

Unit #:

Date Opened: 7/27/2021

Record Status: Approved

Record Status Date: 7/27/2021

Job Value: \$0.00

Requestor:

:

Business Name:

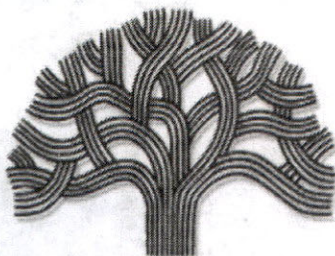
License #:

Inspection Date ▲	Inspector Name	Inspection Type	Status / Result	Result Comments
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For real-time, direct access to information  
via the Internet, 24 hours a day -  
<https://aca.accela.com/oakland>



Update Results



CITY OF OAKLAND

Record Detail with Comments

**Record ID: OB2100810**

Description: Flex Streets permit for a parklet installed in up to three legal parking spaces at 3320 Grand Ave. Permit issued subject to the following conditions. • The parklet must not project any further from the curb than the projection of a standard automobile parked diagonally. • Do not encroach on any part of the adjacent traffic lane. • Do not overhang the adjacent traffic lane. • Do not encroach upon the designated No Parking area protecting the fire hydrant. • Comply with Alameda County Dept of Health guidelines related to social distancing. • All guests in a sidewalk café or parklet must be seated. No standees. • Provide at least 17 square feet of space per seat. To determine the maximum number of seats for your parklet, calculate the total area of the parklet [length x width] and divide by 17. • Ensure that the parklet is ADA accessible from the adjacent sidewalk. • Provide at least one ADA accessible seat in the parklet, and provide an ADA accessible path to that seat. • At all times, maintain one, straight, clear pedestrian path—of at least 6 feet in width—on the adjacent sidewalk. In

APN: 011 083603300

Address: 3320 GRAND AVE

Unit #:

Date Opened: 4/30/2021

Record Status: Created

Record Status Date: 4/30/2021

Job Value: \$0.00

Requestor: Chris Rachal

:

Business Name: M2 mimosa

License #:

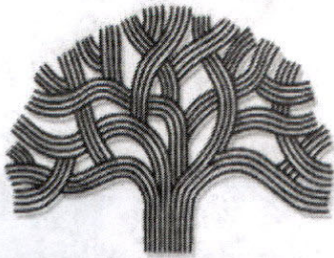
Comment Date ▲	Commenter	Comment
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via the Internet, 24 hours a day -  
<https://aca.accela.com/oakland>





Update Results



CITY OF OAKLAND

## Record Detail with Inspection Log

**Record ID: 2105554****Description:** Mimosa restaurant is noisy every Friday and Saturday from 10pm-2:15am and Sundays 11am-6pm.**APN:** 011 083603300**Address:** 3320 GRAND AVE**Unit #:****Date Opened:** 10/29/2021**Record Status:** CL-Insp-NoViolFound**Record Status Date:** 12/1/2021**Job Value:** \$0.00**Requestor:**

:

**Business Name:****License #:**

Inspection Date ▲	Inspector Name	Inspection Type	Status / Result	Result Comments
12/1/2021	Chris Candell	1st Inspection	No Violation Found	Site inspection. I took noise readings at the curb with doors closed. The noise did not exceed ambient which was close to the code specs of 65 dBA. The ambient varied as it is traffic dependent in the mid 60's. The readings with music were also in the mid to low 60's. The music was audible but did not elevate the noise level in the vicinity. With the newly installed speakers outside the noise level was in the mid 70's exceeding the noise standards of 65 dBA. The owner will cease using the speakers. The violation is not confirmed. CMC x 6986

For real-time, direct access to information  
via the Internet, 24 hours a day -  
<https://aca.accela.com/oakland>

## Nob Hill Gazette apologizes for real estate ad that plays into old stereotypes

Exedra Staff | November 19, 2021

A real estate “advertorial” in this month’s Nob Hill Gazette played into old stereotypes of Piedmont in a manner that both shocked and angered some residents in town who quickly took to social media to call out the publication — and the realtors who took out the ad.

The page in question promoted Piedmont as a desirable place to live by noting that “The city is surrounded by Oakland but worlds apart,” and “Among its 11,270 residents, 74.5% are white.” Piedmont has a history of redlining — a practice common in the Bay Area and around the country prior to the passage of the Fair Housing Act of 1968 that sought to keep people of color from purchasing homes in white neighborhoods.

The page was sponsored by the Grubb Co’s Anian and Adrienne Tunney. The accompanying copy was written by a freelance writer for the Gazette, according to the magazine’s publisher.

The magazine took full responsibility for the error. “Advertising copy in the November issue of the Nob Hill Gazette used U.S. Census data to create an offensive and insensitive characterization in relation to the city of Piedmont,” it said in a statement. “The Grubb Company had no role in the creation of this language. Nob Hill Gazette accepts full responsibility, apologizes for the error, and is taking steps to ensure nothing like this happens again.”

In response to the blowback, the Gazette’s publisher, Clint Reilly, apologized to ABC7 news reporter Kate Larsen in a phone interview on Thursday. “I grew up in the East Bay and I think it’s very unfortunate that wording appeared in the publication. It’s inappropriate and wrong. It does not reflect the values of the Gazette or my own family,” he said. (Read the ABC7 story [HERE](https://abc7news.com/nob-hill-gazette-san-francisco-piedmont-real-estate-article/11252171/). (<https://abc7news.com/nob-hill-gazette-san-francisco-piedmont-real-estate-article/11252171/>) ) Reilly told the reporter that the publication will not be working with the freelancer who wrote the piece again.

Sam Singer, a spokesperson for the Grubb Co said “[the company’s] agents are appalled at the language and had nothing to do with creating the copy. Anian Tunney and Adrienne Krumins are longtime Piedmont residents and feel the citizens of Piedmont and Oakland have been disrespected” with this representation.

The Gazette’s media kit for potential advertisers promises to “Know your audience. Not just as a demographic. Not just their zip codes. Not as a faceless archetype. Know the people. Understand them and the ecosystem they inhabit. Build decades of credibility. Stay fresh. Stay relevant. Surprise and delight your readers.”



STATE OF CALIFORNIA  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
ALCOHOLIC BEVERAGE LICENSE  
ON-SALE GENERAL EATING PLACE

VALID FROM

Jul 29, 2021

LOUNGE GROUP L.L.C. THE  
3320 GRAND AVE  
OAKLAND, CA 94610-2737

EXPIRES

Jun 30, 2022

TYPE NUMBER DUP

47 625705

AREA CODE

0109 22

BUSINESS ADDRESS DBA: M2  
(IF DIFFERENT)

EXC/PER/PRM  
From: 48-423918

OWNERS LOUNGE GROUP L.L.C. THE

CONDITIONS



CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION  
SELLER'S PERMIT

June 14, 2021

ACCOUNT NUMBER

251094336 - 00001

THE LOUNGE GROUP  
3320 GRAND AVE  
OAKLAND CA 94610-2737



Office of Control  
Oakland Office

NOTICE TO PERMITTEE  
You are required to obey all  
Federal and State laws that  
govern or control your  
business. This permit does  
not allow you to do  
otherwise.

IS HEREBY AUTHORIZED PURSUANT TO SALES AND USE TAX LAW TO ENGAGE IN THE BUSINESS OF SELLING TANGIBLE  
PERSONAL PROPERTY AT THE ABOVE LOCATION. THIS PERMIT IS VALID ONLY AT THE ABOVE ADDRESS.

THIS PERMIT IS VALID UNTIL REVOKED OR CANCELED AND IS NOT TRANSFERABLE. IF YOU SELL YOUR BUSINESS OR DROP OUT  
OF A PARTNERSHIP, NOTIFY US OR YOU COULD BE RESPONSIBLE FOR SALES AND USE TAXES OWED BY THE NEW OPERATOR  
OF THE BUSINESS.

Not valid at any other address.

For general tax questions, please call our Customer Service Center at 1-800-400-7115 (CRS 711).  
For information on your rights, contact the Taxpayers' Rights Advocate Office at 1-888-324-2798 or 1-916-324-2798.



# m2

## VIBE DINING

### Baby Kale Salad 18

Baby kale, Applewood Smoked bacon, Granny smith apples, candied pecans, feta cheese crumbles, cranberries, with champagne vinaigrette

### Grilled Romaine w/ Grilled Prawns 21

Grilled Romaine, shaved parmesan cheese, wasabi caesar dressing

### Grilled Jumbo Asparagus 13

Lemon & Garlic Infused Oil & salt, pepper, and garlic

### Portobello Mushroom Lettuce Wrap 16

Chopped Portobello, hoisin & sweet chili sauce, cucumbers, and carrots

### Roasted Brussel Sprouts 11

Honey & Bourbon Balsamic Roasted with Applewood Smoked Bacon

### Truffle Fries 9

Hand Cut Kennebec Potatoes, White Truffle Oil, Sea Salt, Parsley & Parmesan

### Sea Salt Fries 9

Hand Cut Kennebec Potatoes, Sea Salt & Parsley

### Avocado & Crab On Garlic Toast 22

Grilled Sourdough, topped with fresh avocado, lump crab meat, micro greens

### This, That & The Third 13

3 Cheese Grilled Sammie on Texas Toast, with Roasted Red Pepper Tomato Dip

### Grilled Prawns 22

Gulf Prawns grilled and tossed in Clarified Butter & Fresh Minced Garlic

### Salmon Croquette Bites 22

Creole spiced and golden fried with signature NOLA Remoulade

### Miso Glazed Fire Wings 16

Fried & tossed in house made miso glaze, garnished with sesame seeds & chives

### Grilled Jerk Lamb Chops 25

Mild Jerk Spice & Ginger,

## SWEETS:

### Bourbon Bread Pudding 9

with Maple-Bourbon Vanilla Cream Anglais & Mixed Berry Compote

### Fresh Strawberries 8

Hennessy Cream, Brown Sugar, Dark Chocolate Balsamic Drizzle, Whipped Cream and Crumbled Butter Cookies

**\*\*For SUNDAY BRUNCH - Please Ask Your Server .**

# m2

## THURSDAY

### NOLA FARE!!

Louisiana HOT Wings, 16

Fried Redfish & Old Bay Fries, 20

Uptown Jambalaya, 27

Vegan Creole Jambalaya, 23

Crawfish Mac n Cheese, 22

White Truffle & Parmesan Fries, 9

NOLA BBQ Shrimp, 22

9th Ward Hot Link Hoagie, 18

Grilled Artichoke w/remoulade, 15

Bourbon Bread Pudding, 9

Pecan Praline Cheesecake, 9

Winger's

# m2

## SATURDAY Brunch menu

\$28 plus tax

Minors Grand

*Coconut Rice & Peas*

*Jerk Chicken*

*Curry Chickpeas & Collards*

*Fried Plantains*

*Tostones w/ Black Beans & Pulled Chicken*

*Kale Salad w/ Pineapple,  
Mango and Orange  
w/ Citrus Honey Dressing*



# m2

Winnipeg Grand

## SUNDAY SOUL Brunch Buffet

**Applewood Smoked Bacon**  
**Beef Hot Link (Mild)**  
**Chicken Apple Sausage**

**Veggie Hash (Vegan)**  
*Brussels, Mushrooms, and Kale*  
**Country Potatoes (Vegan)**  
**Scrambled Eggs with Chives**

**Buttermilk Biscuits**  
**Savory Garlic Parmesan Grits**  
**Creole Crawfish Gravy**

**Cinnamon Challah French Toast**  
**Powdered Sugar "Deaux-Nuts"**  
**Bread Pudding "Muffins"**

**Vegan/Vegetarian Options:**  
**Beyond Meat Sausage**  
**Morning Star Sausage**  
**Vegan "Just Egg" ( Made to order)**







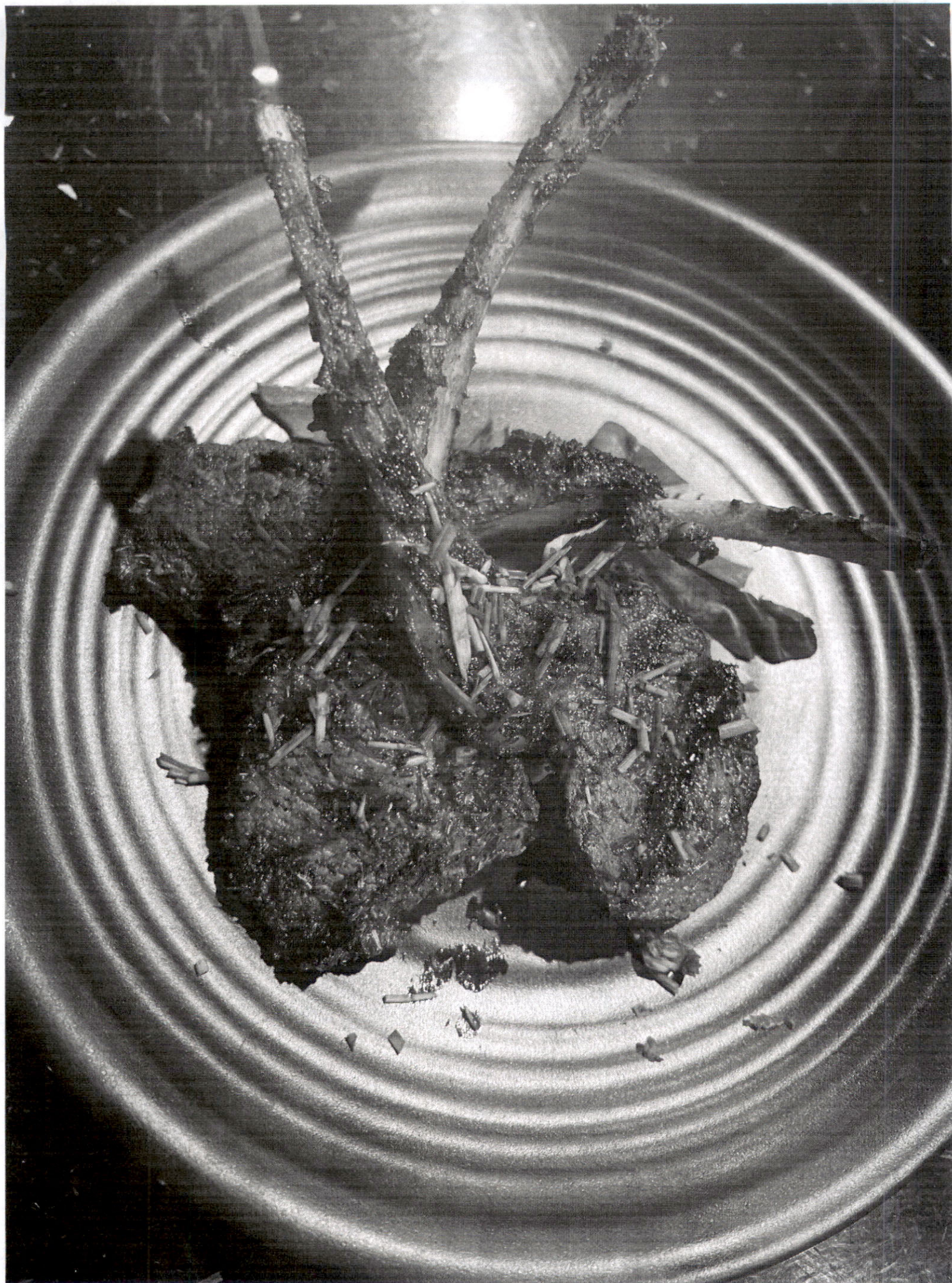




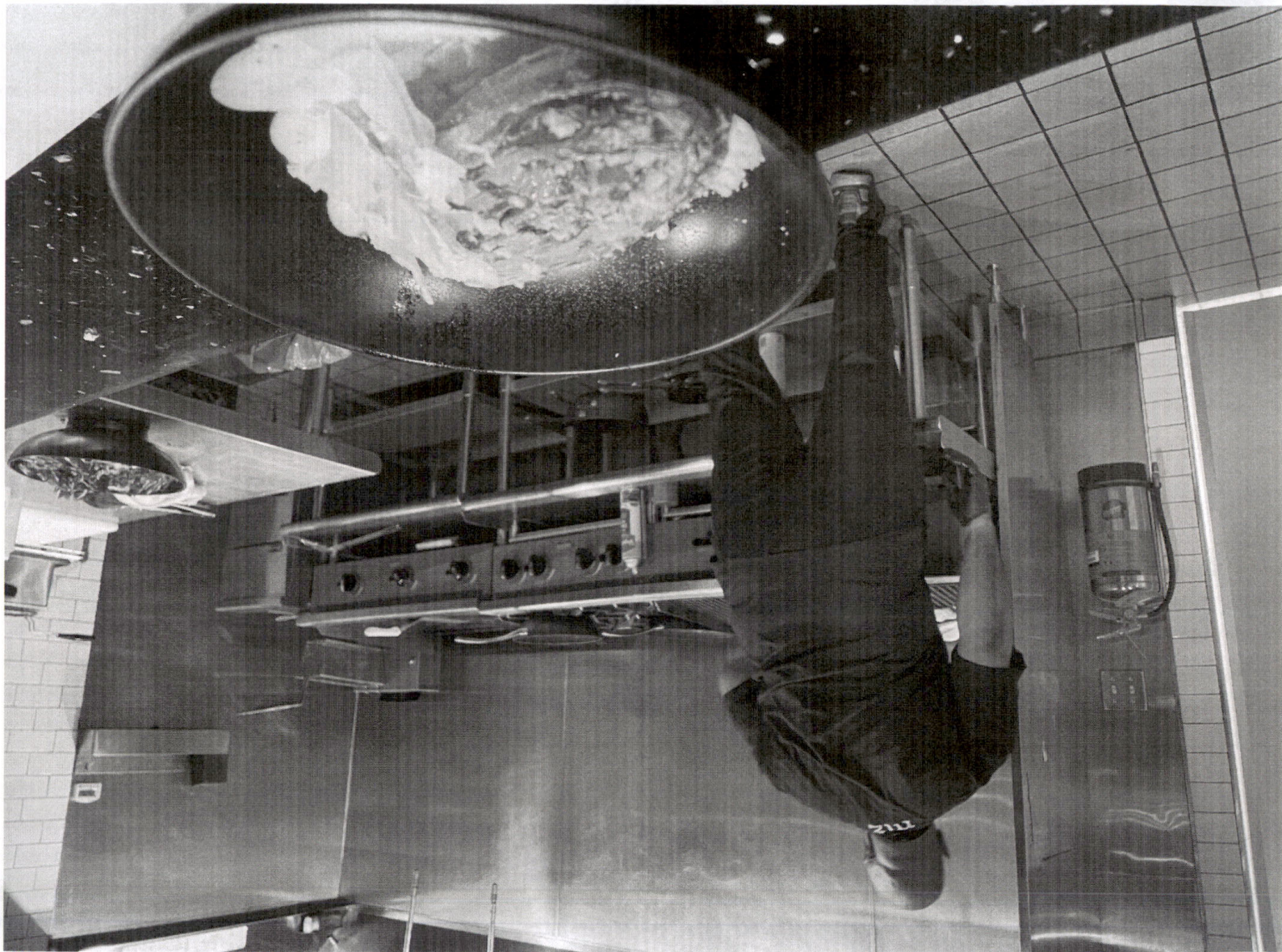


@m2oak





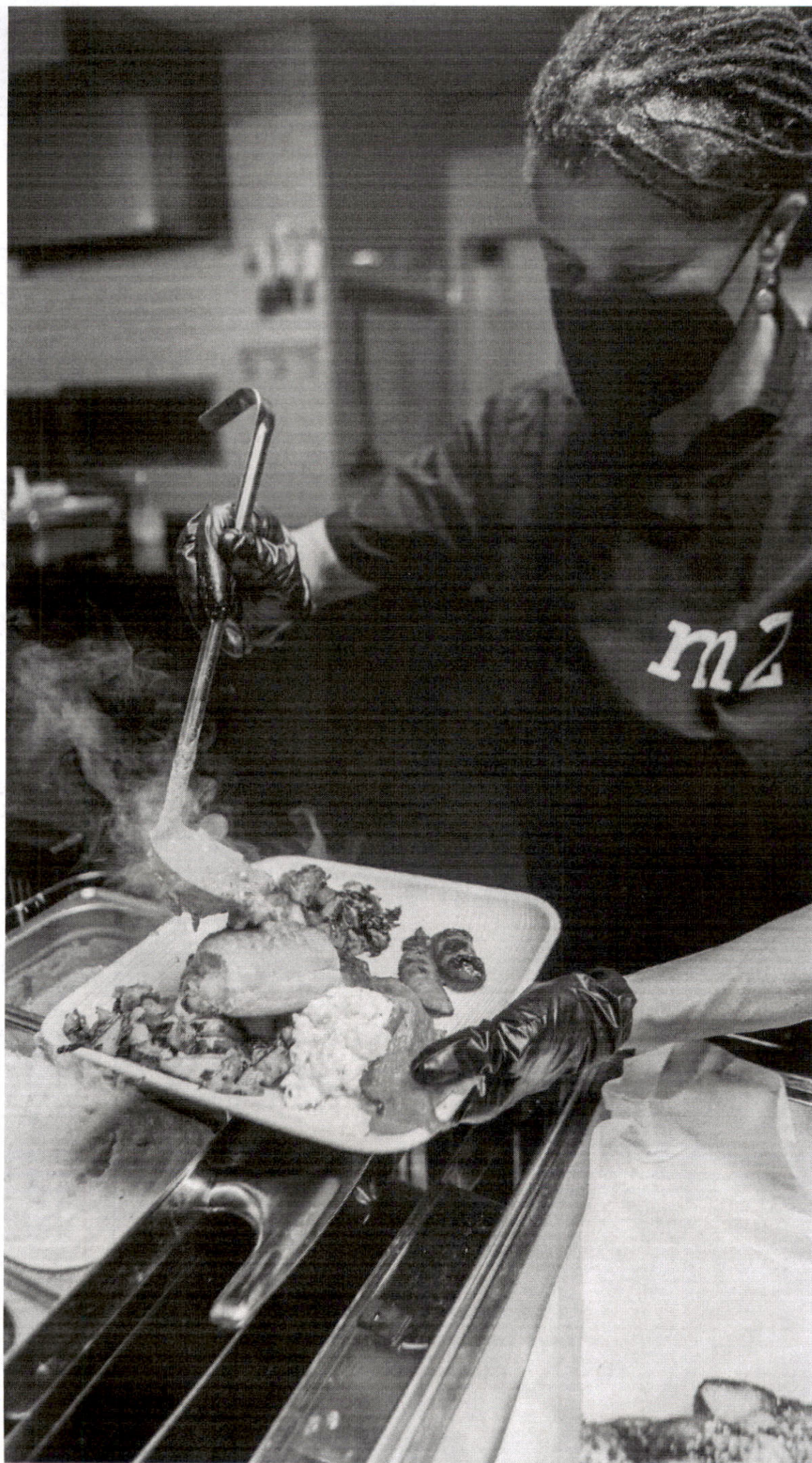








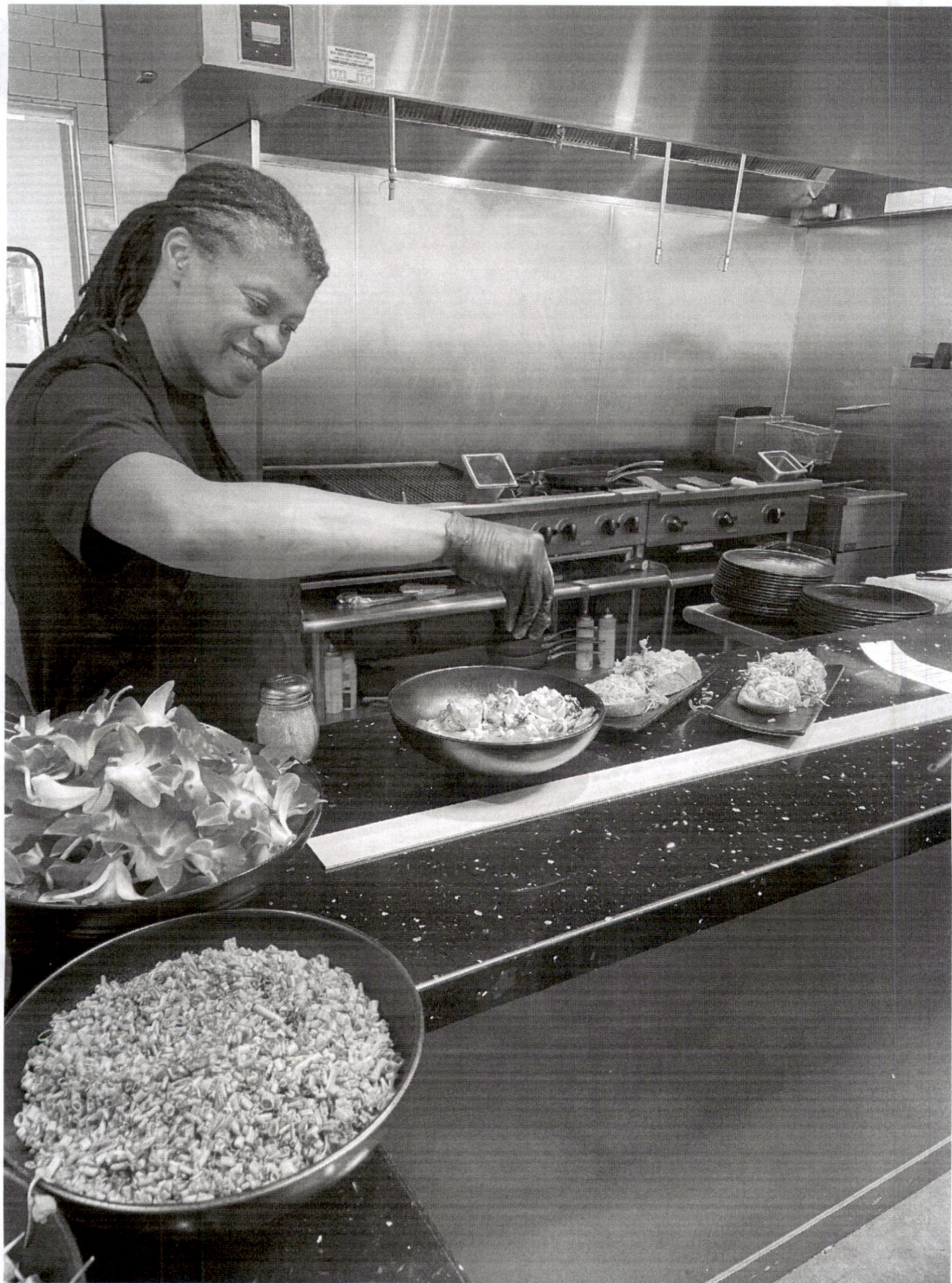














## NEED TO CANCEL OR RESCHEDULE?

Please cancel and reschedule your appointment if you have COVID-19 symptoms or have been exposed to someone that has tested positive. Symptoms include, but are not limited to: chills, cough, fever, loss of taste or smell, shortness of breath, or sore throat.

Need to cancel or reschedule your appointment? Please refer to the original confirmation message you received when booking to cancel or reschedule. For Planning & Building Department appointments, you may also call (510) 238-3891. We ask that you cancel or request to reschedule at least 24 hours in advance. This will allow staff to offer appointments to other patrons in need of assistance.

## WHEN YOU ARRIVE & COVID SAFETY

### COVID-19 SAFETY PROTOCOLS



Masks are required for entry into all City of Oakland buildings, regardless of vaccination status.

You must check in with security and go through a temperature screening before entering the building. All customers should go to the Greeter Station on the first floor where you may check in for a previously scheduled appointment, schedule an appointment, or receive customer assistance.

- For the sake of reducing density, please come to your appointment alone if at all possible.
- Please wear a mask indoors at all times.
- Please sit in designated areas only.
- Hand sanitizer and wipes are available.
- Cough or sneeze into your elbow, not your hands.
- Throw used tissues or wipes into the trash bin.
- Please do not eat or drink inside the building.
- Please remain behind the plexiglass barriers.
- Public restrooms are available on the first floor.

For OakDOT or Fire Dept. appointments, staff will meet you on the first floor, then escort you to the second floor for your appointment. For Planning & Building Department appointments, you will be notified when staff is ready to serve you through monitors in the lobby or via text or email.

## MOST SERVICES BY-APPOINTMENT-ONLY

Most Permit Center services are by-appointment-only, with limited walk-in services. We provide online services 24/7 through our Online Permit Center: [bit.ly/OaklandOnlineServices](https://bit.ly/OaklandOnlineServices)

## SCHEDULE YOUR APPOINTMENT:

Please note that a limited number of applications may be approved same-day or "Over the Counter". Please see reverse for a list of same-day permits. You may self-schedule appointments for the following:

- Planning/Zoning-related questions
- Building or Plan Check-related questions
- Fire Prevention issues or permits
- Department of Transportation issues or permits
- Pay/discuss fee(s) with the Cashier

We will accommodate only one project application per appointment. Multiple applications require separate appointments. We cannot guarantee "back to back" appointments. Please arrive 15 minutes early to allow time to get through building security and check in. If you arrive more than 15 minutes late, staff will need to reschedule your appointment. Staff cannot guarantee you will be seen the same day. If you fail to appear, you may be charged a fee.

## SCHEDULE APPOINTMENTS:

[bit.ly/PermitCenterApts](https://bit.ly/PermitCenterApts)



## PERMIT CENTER NOW OPEN!



CITY OF  
**OAKLAND**

## ONE STOP PERMIT CENTER

City of Oakland Permit Center  
250 Frank H Ogawa Plaza  
1st Floor (Greeter Station & Lobby) &  
2nd Floor (Permit Counters)  
Oakland, CA 94612

## PARTICIPATING DEPARTMENTS:

Oakland Fire Department (OFD)  
Oakland Dept. of Transportation (DOT)  
Planning & Building Department (PBD)

## HOURS OF OPERATION:

### SCHEDULED APPOINTMENTS:

Mon, Tue, Thu: 9 am - 4 pm  
Wed: 10 am - 4 pm

### WALK-IN SERVICES

PLANNING & BUILDING ONLY\*:  
Mon and Wed: 10:00 AM - 2:00 PM

PERMIT COUNTER CLOSED ON FRIDAY

## PERMIT CENTER WEBSITE:

[bit.ly/OaklandPermitCenter](https://bit.ly/OaklandPermitCenter)





## PLANNING & BUILDING DEPARTMENT

### PLANNING & ZONING:

- Ask general questions with a planner about Zoning and design requirements for your project
- Planning/Zoning: (510) 238-3911

### BUILDING SERVICES:

- Ask general questions about Building Permit applications or processing issues.
- Plan Check Services – To consult with a Building Services engineer about building code-related issues (structural, fire, accessibility, safety and habitability issues).
- Building Inspections – Inspections are required to ensure construction proceeds according to approved plans, conditions-of-approval, and all current code standards. Call (510) 238-3444
- Permit Issuance – Once approved with all fees paid, your permit will be issued via email
- Code Enforcement – File a property complaint concerning blight, unpermitted work, housing or Zoning violations. Property improvement programs also available. Call (510) 238-3381
- Building Services: (510) 238-3891

### PLANNING & BUILDING PERMITS: [bit.ly/PBDPermits](http://bit.ly/PBDPermits)



## ONE-STOP PERMIT CENTER

The City of Oakland welcomes you back to 250 Frank H. Ogawa Plaza, our One-Stop Permit Center! This guide is designed to assist you in accessing permitting services as we reopen to in-person services and continue to expand the range of services available online:  
**[bit.ly/OaklandOnlineServices](http://bit.ly/OaklandOnlineServices)**

In addition, the City has combined the permitting counter services of the Planning & Building Department, Oakland Fire Department, and Department of Transportation on the second floor to provide for a "One-Stop-Shop" experience. We thank you in advance for your patience as we make these changes that will allow us to provide you with more responsive and efficient services.

## FIRE DEPARTMENT

### FIRE PREVENTION PERMITS/SERVICES:

- Apply for a permit: Occupancy Permits, Mobile Food Truck Permits, Special Events
- Ask questions about Vegetation Management
- Ask questions about an existing permit application
- Review the footprint and requirements for a special event
- Submit payment to Fire Prevention Bureau
- Fire Permits & Inspections: Call (510) 238-7926 or email [FPBReceptionist@oaklandca.gov](mailto:FPBReceptionist@oaklandca.gov)

### FIRE PERMITS: [bit.ly/OFDPermits](http://bit.ly/OFDPermits)



## DEPT. OF TRANSPORTATION (OakDOT)

### TRANSPORTATION PERMITS/SERVICES:

- Apply for a permit or get answers to permitting questions. Permits covered include:
  - Curb, Gutter & Sidewalk [CGS] Permit\*
  - Traffic Control Plan [OB] Permit
  - Obstruction [OB] Permit\*
  - Sewer Lateral [SL] & Minor Excavation Permits\*
  - Sidewalk Certification\*
  - Utility and Telecom Permits [X, OB, ENMI]
  - Offsite Infrastructure [PX] Permit
  - Major/Minor Encroachment Permit
  - \* Same-day (Over the Counter) permits
- Drop off plans or other permit materials
- Meet with an OakDOT Engineer
- Pay for permits at the Cashier's Office
- OakDOT Permits, Engineering, & Plan Review: (510) 238-3199 | [DOTOnlinePermits@oaklandca.gov](mailto:DOTOnlinePermits@oaklandca.gov)

### OAKDOT PERMITS: [bit.ly/OakDOTPermits](http://bit.ly/OakDOTPermits)



## ADDITIONAL SERVICES

- Cashier: Submit payments (Visa or Master Card only), request refunds or demand pay-offs or Code Enforcement billing appeals. Get help with fee questions. Call (510) 238-4774
- Records Requests: Submit a records request. Call (510) 238-8354
- Self-Serve Computers: Apply for permits or submit information or upload additional documents



CITY OF OAKLAND

**250 FRANK H. OGAWA PLAZA ▪ SUITE 2340 ▪ OAKLAND, CALIFORNIA 94612-2031**

Planning and Building Department

(510) 238-3381

Bureau of Building

TDD:(510) 238-3254

Building Permits, Inspections and Code Enforcement Services

[inspectioncounter@oaklandca.gov](mailto:inspectioncounter@oaklandca.gov)

## NOTICE OF VIOLATION

*Certified and Regular mail*

To: Code Enforcement Case No.:  
Property:  
Parcel Number:

**Correction not later than:**

**Re-inspection timeline:**

or

*(Violations not abated by the Correction date will be subject to further enforcement including fee assessments)*

Code Enforcement Services inspected your property on \_\_\_\_\_ and confirmed:

- ☐ that the violations of the Oakland Municipal Code (OMC) identified below (p. 2) are present and need to be addressed as specified under "Required Actions". Photographs of the violations are enclosed where applicable.
- ☐ that work was performed without permit or beyond the scope of the issued permit and you are receiving this Notice of Violation because you did not get the required permit within three (3) days of receiving the Stop Work Order. You must contact the inspector indicated below before the Re-inspection Date to stop further code enforcement action.

**Other charges may have been assessed**, for these violations. To stop further code enforcement action, you are advised to correct the above violations and contact Inspector \_\_\_\_\_, who is assigned to your case, before the re-inspection timeline shown above to schedule an inspection. Your inspector is available by phone at 510-238-\_\_\_\_\_ and by email at \_\_\_\_\_@oaklandca.gov.

*If the Property Owner Certification is included in this notice you may also complete the form and include photographs of the corrected violations.*

**Note: If a complaint is filed regarding the same or similar violation(s) and it is confirmed within 24 months from the date of this notice an immediate assessment of \$1,227.00 will be charged as a Repeat Violation. In addition, if violation(s) remain uncorrected after you receive a Re-inspection notice, further enforcement action(s) will include additional fees.**

### Additional Code Enforcement Actions:

- If the re-inspection verifies that all violations have not been corrected, you will be charged for inspection and administrative costs that can total **\$2718.00**.
- Property Blight may be abated using City contractors and you will be charged for the contracting and administrative costs.
- The Notice of Violation may be recorded on your property title with associated fees for processing and recording.
- If it is necessary for tenants to vacate so that repairs can be made, you are required to comply with the Code Enforcement Relocation Program (OMC 15.60.010).
- Violations determined to be Investor-Owned (OMC 8.58) or Foreclosed and Defaulted (OMC 8.54) properties will be assessed fees to include re-inspection costs if violations are not corrected and Administrative/Civil penalties.



# Violations

Property Address:

Complaint #:

## Property Maintenance (Blight)

Description of Violation	Required Action	OMC Section

## Building Maintenance (Housing)

Description of Violation	Required Action	OMC Section

## Zoning (Minor)

Description of Violation	Required Action	OPC Section

Description of Violation	Required Action	OPC Section

**Zoning Violations:** Major Zoning violations require a Zoning Determination before an appeal to the Planning Commission. If you wish to appeal a Major Zoning violation, please see the process or filing for a Zoning Determination in the Appeal Section of this notice.



## Appeal Information

***You have a right to appeal*** this Notice of Violation. The following describes the process for appealing each type of violation described in the Notice of Violation. In some cases, separate appeal processes may be required.

In order to appeal any violations described in this Notice of Violation, you must complete the enclosed Violation Appeal form and submit it as described below with supporting documentation along with the applicable appeal fee(s) by the Appeal deadline. If you wish to appeal a Major Zoning violation(s), you must submit the enclosed Appeal form requesting a Zoning Determination by the Zoning Manager. Your supporting documentation to the Zoning Manager should explain a) why the use of your property conforms to the zoning designation for the property or b) why the activity should be approved as set forth in Planning Code, Title 17.

**The Appeal Deadline is:** Note: The appeal period may be reduced based on prior noticing i.e., Courtesy notice, and the Property Owner Certification on record.

**Applicable to all appeals:** The Bureau of Building must receive your written appeal by the Appeal Deadline or you will waive your right to administrative review of all violations described in this Notice of Violation. Incomplete appeals including, but not limited to an oral notification of your intention to appeal, a written appeal postmarked but not received by us within the prescribed deadline or a written appeal received by us without a filing fee are not acceptable and will be rejected.

If you choose to file an appeal for Property Maintenance (Blight), Building Maintenance (Housing) and/or Minor Zoning violations, no further action can be taken by Code Enforcement Services with respect to these violations until you have had the opportunity to be heard by an independent Administrative Hearing Examiner pursuant to the Oakland Municipal Code Section 150.08.100 and a Final Decision is determined. An appeal will be scheduled within **60** from the end of the appeal period.

If you choose to file an appeal for Major Zoning violations, the Zoning Manager will issue written decision within **45 days** from the end of the appeal period. If you disagree with the decision you may appeal to the Planning Commission within **10 days** from the written decision. Unless special circumstances require otherwise, you will be expected to work with the Bureau of Building to resolve the Building Code violations (s) and any Minor Zoning Violation(s) during the Major Zoning appeal process.

### Appeal Fees

For Property Maintenance (Blight), Building Maintenance (Housing) and Minor Zoning Appeals: A filing fee in the amount of **\$116.00** is due at the time of submittal. Payments may be made in person at the Bureau of Building, 250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor, or by phone by calling 510-238-4774 (**Please include the receipt number and date on your appeal**). MasterCard and Visa are accepted.

For Zoning Determinations/Appeals of Major Zoning violations: A filing fee in the amount of \$434.00 is due at the time of submittal in the manner described above. Additionally, a \$434.00 per hour fee will be assessed as needed to complete the review of the determination. The determination fee is not refundable once the letter has been issued, regardless of outcome.

Sincerely,

Specialty Combination Inspector  
Planning and Building Department

Attached as applicable:

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Blight brochure                                   | <input type="checkbox"/> Residential Code Enforcement brochure         | <input type="checkbox"/> Vehicular Food Vending brochure            |
| <input type="checkbox"/> Property Owner Certification                      | <input type="checkbox"/> Mold and Moisture brochure                    | <input type="checkbox"/> Pushcart Food Vending brochure             |
| <input type="checkbox"/> Lead Paint brochure                               | <input type="checkbox"/> Undocumented Dwelling Units brochure          | <input type="checkbox"/> Smoke Alarms brochure                      |
| <input type="checkbox"/> Photographs                                       | <input type="checkbox"/> Stop Work brochure                            | <input type="checkbox"/> Condominium Conversion brochure            |
| <input type="checkbox"/> Housing – Relocation Assistance Program           | <input type="checkbox"/> Investor Owned Property brochure              | <input type="checkbox"/> Foreclosed and Defaulted Property brochure |
| <input type="checkbox"/> Description of Property Maintenance Code Sections | <input type="checkbox"/> Major and Minor Zoning Violation Descriptions |   |

cc:



CITY OF OAKLAND

**250 FRANK H. OGAWA PLAZA ■ SUITE 2340 ■ OAKLAND, CALIFORNIA 94612-2031**

Planning and Building Department

Bureau of Building

Building Permits, Inspections and Code Enforcement Services

(510) 238-3381

[inspectioncounter@oaklandca.gov](mailto:inspectioncounter@oaklandca.gov)

## PROPERTY OWNER CERTIFICATION

### CORRECTED OR REMOVED VIOLATIONS

Date:

Property:

Parcel no.

Case no.:

Owner:

Courtesy Notice date:

Correction Date:

Return to:

#### Instructions

1. Review the property address and owner information shown at the left and make any necessary corrections.
2. **If applicable, before** the Re-inspection date shown at the left, complete and return this signed form with dated photographs of your property to verify the violations were removed or not present:

**E-mail:** [inspectioncounter@oaklandca.gov](mailto:inspectioncounter@oaklandca.gov)

**Facsimile:** 510/ 238-2959

**Mail:** City of Oakland  
Bureau of Building  
250 Frank H. Ogawa Plaza Suite 2340  
Oakland, CA 94612-2031  
(Envelope enclosed – no postage required)

***I certify that I have corrected the following*** violation(s) identified in the Notice of Violation I received from the City of Oakland.

***I understand that if a complaint is filed regarding the same or similar violation(s) and it is confirmed within 24 months from the date of this notice an immediate assessment of \$1,226.00 will be charged as a Repeat Violation fee. If the violation remains uncorrected after I receive Re-inspection notice further enforcement action(s) will be taken that will include additional fees.***

***I have corrected the following*** violations identified in the Notice of Violation I received from the City of Oakland:

---

---

---

Print Name

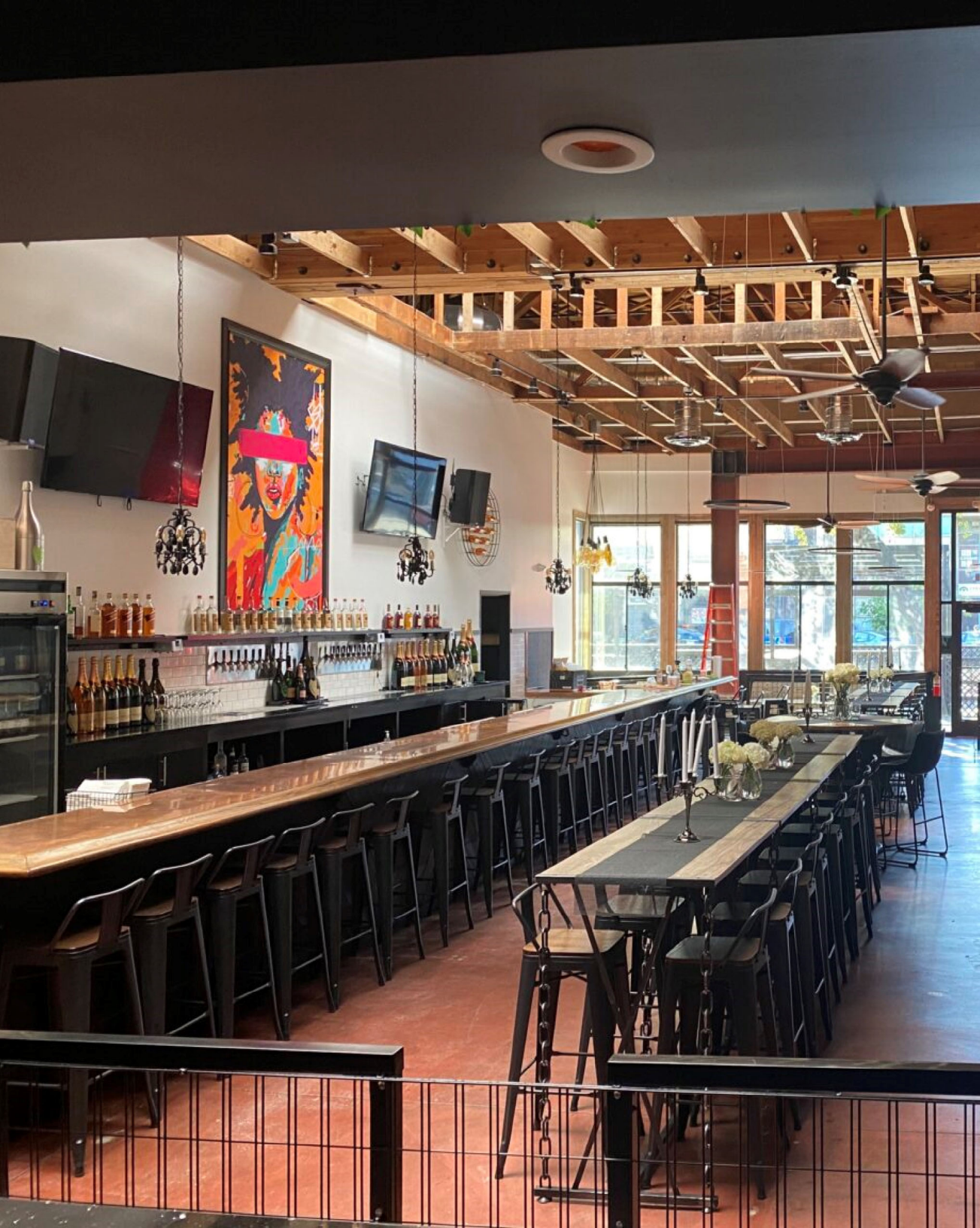
Date

Property Owner Signature

(\_\_\_\_) \_\_\_\_\_  
Day time telephone

\_\_\_\_\_  
E-mail





**3320 Grand Avenue--OPD Reports?**

Salas, Ricardo <RSalas@oaklandca.gov>

Tue 8/9/2022 3:41 PM

To: Sena, Jennifer <JSena@oaklandca.gov>

Cc: Klein, Heather <HKlein@oaklandca.gov>; Merkamp, Robert <RMerkamp@oaklandca.gov>

Hi Jenn,

The city is scheduled to send out a determination letter by the end of the week. We are hoping to include a copy (redacted) of the police reports along with all city attachments. Do you know if OPD cited this establishment for excessive noise?

Here is the information that was given to the city:

- 12/12/21 serial # 9832 RD# 802, officer A. Arrizon
- 5/28/22 serial # 9792 RD# 22-024524, officer C Parker (issued warning of excessive noise and M2 continued to operate loudly so the officers passing by later notified them again about the noise)
- 5/28/22 (around 10:10pm) serial # 9695 RD# 0931 (handwriting difficult to read, I think the number is correct but let us know if you can't find it), officer K. Yoo

Gracias, Jenn!

Ricardo Salas  
Municipal Code Enforcement Officer  
Special Activity Permits Division  
1 Frank H. Ogawa Plaza, 11<sup>th</sup> Floor  
Oakland, CA 94612  
Phone: (510) 238-4754  
Cell: (510) 913-7028  
[Rsalas@oaklandca.gov](mailto:Rsalas@oaklandca.gov)

E-MAILED AUG 10 2022







# Oakland Police Department

455 - 7th Street  
Oakland, CA 94607

☐ Supplemental

## Crime Report

OCURRED	DATE	TIME	DAY	PREMISE TYPE	CAD INCIDENT	RD #
ON OR FROM	21 MAY 22	2200	Saturday	Restaurant - Liquor Sales	LOP220528000756	22-024524
TO	28 MAY 22	1834	Saturday	ADDRESS / LOCATION		BFO
REPORTED	28 MAY 22	1834	Saturday	3320 Grand Ave (Mimosa 2) , Oakland, CA 94610 (At: 8.18.010 OMC - Excessive And Annoying Noises)		1
				BEAT 14Y		
<input type="checkbox"/> PHOTOS TAKEN <input type="checkbox"/> PRINTS OBTAINED <input type="checkbox"/> TECHNICIAN						
LOCATION TYPE:				<input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/> SENIOR INVOLVED <input type="checkbox"/> GANG RELATED <input type="checkbox"/> DRUGS INVOLVED		
OUTSIDE REPORTING AGENCY				SOLVABILITY FACTORS <input type="checkbox"/> SERIOUS INJURY <input type="checkbox"/> SUSPECT IN CUSTODY <input checked="" type="checkbox"/> IDENTIFIABLE SUSPECT <input checked="" type="checkbox"/> SURVEILLANCE PHOTO <input checked="" type="checkbox"/> EVIDENCE NAMED SUSPECT <input type="checkbox"/> R/O REQUESTS INVEST.		
Weapon Used				None		
DGO K-4 Force Reported				No		
Theft Type						
Burglary Type						
Method of Entry						
Location of P.O.E.						
Point of Entry						
Location				Restaurant - Liquor Sales		
OFFENSE 1	COUNTS	STATUTE / CODE	DESCRIPTION			
	1	PC415 (2)	DISTURB THE PEACE BY LOUD/UNREASONABLE NOISE			
CRIME ENHANCEMENT <input type="checkbox"/> PARTY TO CRIME <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/> CONSPIRACY <input type="checkbox"/> GANG RELATED <input type="checkbox"/> ARMED <input type="checkbox"/> SOLICITED <input type="checkbox"/> ATTEMPTED <input type="checkbox"/> HATE CRIME				HATE CRIME MOTIVATION		
VICTIM 1	LAST, FIRST, MID.			SEX	RACE	D.O.B.
HOME ADDRESS	ALIAS NAME (LAST, FIRST)			HAIR	EYES	SSN
HOME PHONE	CELL PHONE	PAGER	HEIGHT	WEIGHT		
EVENT ASSOC	ETHNICITY	CONTACT DATE/TIME	DRIVERS LICENSE #	LICENSE EXP.	LIC. STATE	<input type="checkbox"/> GANG ASSOCIATION
OCCUPATION	EMPLOYER / SCHOOL			WORK HOURS		
BUSINESS ADDRESS / SCHOOL				WORK PHONE		
VICTIM TYPE				INJURY SEVERITY		
				TREATED BY		
INJURY DESCRIPTION						
BUSINESS 1	BUSINESS NAME				PHONE	
	Mimosa 2				(510)328-3213	
ADDRESS				VICTIM TYPE		
3320 Grand Ave , Oakland, CA 94610						
BUSINESS TYPE		EVENT ASSOCIATION		BUSINESS HOURS		ALARM NUMBER
Restaurant/Fast Food		Suspect				
OFFICER 1	OFFICER NAME   SERIAL NO.				ROLE	BEAT
	Officer C. Parker 9792				RO	14X
OFFICER 2	OFFICER NAME   SERIAL NO.				ROLE	BEAT
	Sergeant J. Ladd 9365				ROSUP	1
REPORTED BY	SERIAL	BEAT	BFO	SUPERVISOR	SERIAL	REVIEWER
Officer C. Parker	9792	14X	1	Sergeant J. Ladd	9365	Josiah Ladd
					SERIAL	
						9365

ORI 00109

# Oakland Police Department

455 - 7th Street Oakland, CA 94607

## Crime Report - Continued

OCCURRED	DATE	TIME	DAY	PREMISE TYPE	CAD INCIDENT	RD #
ON OR FROM	21 MAY 22	2200	Saturday	Restaurant - Liquor Sales	LOP220528000756	22-024524
TO	28 MAY 22	1834	Saturday	ADDRESS / LOCATION		BFO
REPORTED	28 MAY 22	1834	Saturday	3320 Grand Ave (Mimosa 2), Oakland, CA 94610 (At: 8.18.010 OMC - Excessive And Annoying Noises)		BEAT
						1
						14Y
<input type="checkbox"/> PHOTOS TAKEN <input type="checkbox"/> PRINTS OBTAINED <input type="checkbox"/> TECHNICIAN						
OFFICER 3	OFFICER NAME   SERIAL NO. Josiah Ladd 9365				ROLE REV	BEAT BFO 1

### Narrative

\*\* as 8.18.010 OMC - Excessive And Annoying Noises is not listed in the offense section, 415 (2) PC - DISTURB THE PEACE BY LOUD/UNREASONABLE NOISE was selected. The actual offense is 8.18.010 OMC - Excessive And Annoying Noises.\*\*

### NARRATIVE:

On 28 May 2022, at approximately 1834 hours, I was working as OPD patrol unit 2L14. I was wearing my full police utility uniform and driving fully marked patrol vehicle 1761. At this time, I was flagged down by [REDACTED] in the 3200 block of Grand Ave.

[REDACTED] stated that he has been having an on going issue with loud music and yelling coming from 3320 Grand Ave (Mimosa 2). [REDACTED] stated that for months, the restaurant has been acting as a night club and plays loud music which can be heard from more than 50' away.

[REDACTED] stated that Mimosa 2's music is loud throughout the day, but especially between 2200 - 0200 HRS Friday and Saturday as well as 1500 - 1800 HRS on Sundays. [REDACTED] also stated that Mimosa 2's music disturbs his peace as well as his girlfriend that lives with him because it can be heard from within his apartment which approximately 300' ft. away from Mimosa 2.

[REDACTED] stated that he attempted to contact Mimosa 2 via email, but they refused to turn down the music.

[REDACTED] also stated that during late night hours, Mimosa 2 operates as a night club, but are not permitted to do so. [REDACTED] also stated that customers seated outside of the restaurant often yell and scream loudly.

I stood approximately 50' feet away and observed loud music coming from 3320 Grand Ave. that was played for more than 10 minutes, a violation of 8.18.010 OMC - Excessive And Annoying Noises.

I completed an OPD noise complaint notice and provided [REDACTED] with a copy. I provided [REDACTED] with an OPD contact card that had my name, serial number, and the report number. I also provided [REDACTED] with a Marsy's resource card as well as information on how to obtain a court order.

I relocated to Mimosa 2 and advised the owner, "Jeff Cino", of the complaint and provided him with a copy of the OPD complaint notice.

### OPD ADMIN:

My BWC was activated.

While on scene, I did not use or witness force.

While on scene, I did not handcuff or search anyone.

REPORTED BY	SERIAL	BEAT	BFO	SUPERVISOR	SERIAL	REVIEWER	SERIAL
Officer C. Parker	9792	14X	1	Sergeant J. Ladd	9365	Josiah Ladd	9365

ORI 00109



INC : LOP211212000802  
TIME: 2239 TYPE: 943  
ADDR: 3320 GRAND AV  
BLD :  
APT :  
LOC : M2 RESTAURANT  
ZONE: 14Y  
STAT: C

MAP : 650-3A  
XST2: 498 ELWOOD AV  
MCIR:

LOP211212000802 \*\*\* Audit Trail  
\*\*\*

PHN: 6692699280  
P UN: OP/3L16 RPT#:

21/12/12 22:39:25 - Incident  
Initiated By: OP/C58  
21/12/12 22:39:25 - Original  
Location : M2 RESTAURANT  
21/12/12 22:39:25 - RP ADV  
LOCATION IS LICENSE AS RESTAURANT  
BUT OPERATING AT NIGHTCLUB

21/12/12 22:39:39 - 4 SUBJS IN  
943 -  
21/12/12 22:39:54 - 4MB AND 1FB,  
NO WEAPONS SEEN -  
21/12/12 22:40:00 - BL TO BREAK  
21/12/12 22:40:27 - Stat OP/3L16  
ER Loc: M2 RESTAURANT  
21/12/12 22:40:27 - Stat OP/2L18  
ER Loc: M2 RESTAURANT  
21/12/12 22:40:28 - Primary unit  
To: OP/3L16  
21/12/12 22:40:31 - S1/MB, 6'2,  
HVY BLD, BLK SUIT  
21/12/12 22:40:49 - WHILE RP  
REPORTING 415E - 943 BROKE OUT -  
21/12/12 22:41:04 - S2/FB, BLK  
DRESS  
21/12/12 22:41:50 - Stat OP/2L08  
ER Loc: M2 RESTAURANT  
21/12/12 22:41:50 - Stat OP/2L10  
ER Loc: M2 RESTAURANT  
21/12/12 22:42:03 - 962 W/ RP AT  
GRAND LAKE THEATRE - 914 WHEN  
AVAIL FOR 962 -



21/12/12 22:44:20 - Stat OP/3L16

OS Loc: M2 RESTAURANT

21/12/12 22:47:00 - Stat OP/2L18

AV

21/12/12 22:47:00 - Disposition

CHANGED To: COV MAIN

21/12/12 22:47:06 - Stat OP/2L08

AV

21/12/12 22:47:06 - Disposition

CHANGED To: COV MAIN

21/12/12 22:48:24 - Stat OP/2L10

OS Loc: M2 RESTAURANT

21/12/12 22:54:02 - ON CALLBACK

THE RP IS WALKING OVER TO MEET

W/OFFICER

21/12/12 23:04:11 - \*\*\* Comments

\*\*\*

Arrived OS, and spoke with the RP

[REDACTED] who advised he

believed

this location to be an underground

club. He advised he would be

seeking

partnership with the City Council

to get their license revoked.

21/12/12 23:04:22 - Stat OP/3L16  
AV

21/12/12 23:04:22 - Disposition  
CHANGED To: COV MAIN

21/12/12 23:36:42 - Stat OP/2L10  
AT-TRANSPORTATION Loc: M2  
RESTAURANT

21/12/12 23:42:38 - Stat OP/2L10  
AV



INC : LOP220528000931  
TIME: 2207 TYPE: 415E  
ADDR: 3300 GRAND AV  
BLD :  
APT :  
LOC :  
ZONE: 14Y  
STATE: C

MAP : 650 2A

MCIR:

CNAM:

LOP220528000931 \*\*\* Audit Trail  
\*\*\*

PHN:

P UN: OP/3A14 RPT#:

22/05/28 22:07:31 - Incident

Initiated By: OP/C20

22/05/28 22:07:31 - Initial Field

Initiate by OP/3A14 at 22:07:31 on

22/05/28

22/05/28 22:07:31 - ON A FD

22/05/28 22:07:31 - Stat OP/3A14  
OS Loc: 3300 GRAND AV

22/05/28 22:07:32 - Primary unit  
To: OP/3A14

22/05/28 22:15:47 - \*\*\* Comments  
\*\*\*

Flagged down by [REDACTED]  
who advised that business M2 at  
3320

Grand Av was playing music loud  
outside. Observed that the music  
outside

was loud enough to hear past 50  
feet. Contacted employee at M2 who  
agreed to turn off music

22/05/28 22:16:01 - playing  
outside. PDRD was activated.

22/05/28 22:20:03 - Stat OP/3A14  
AV

22/05/28 22:20:03 - Disposition  
CHANGED To: RTAR MAIN