

TCAA SUMMER CONFERENCE

South Padre Sunset



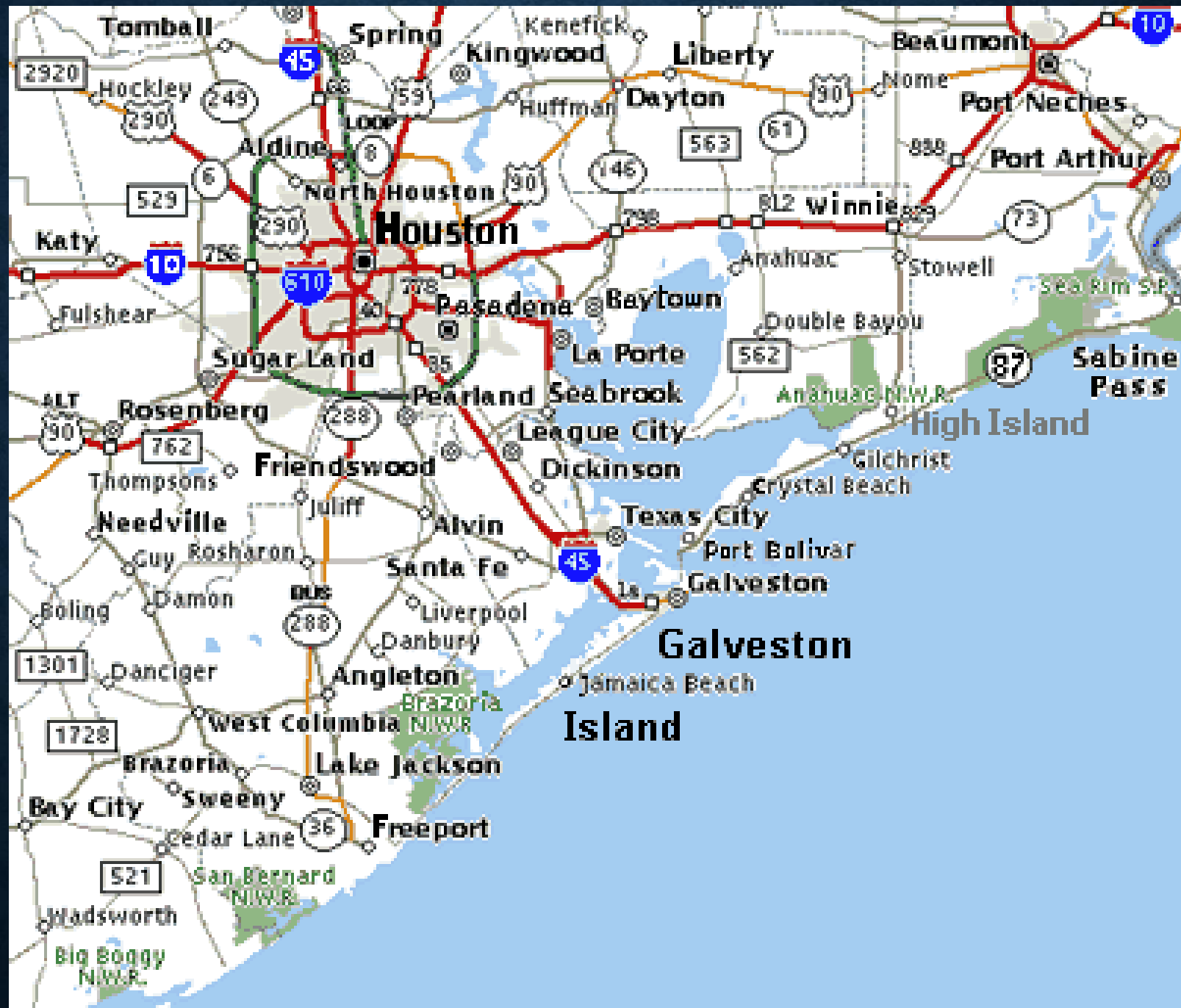
Presenter

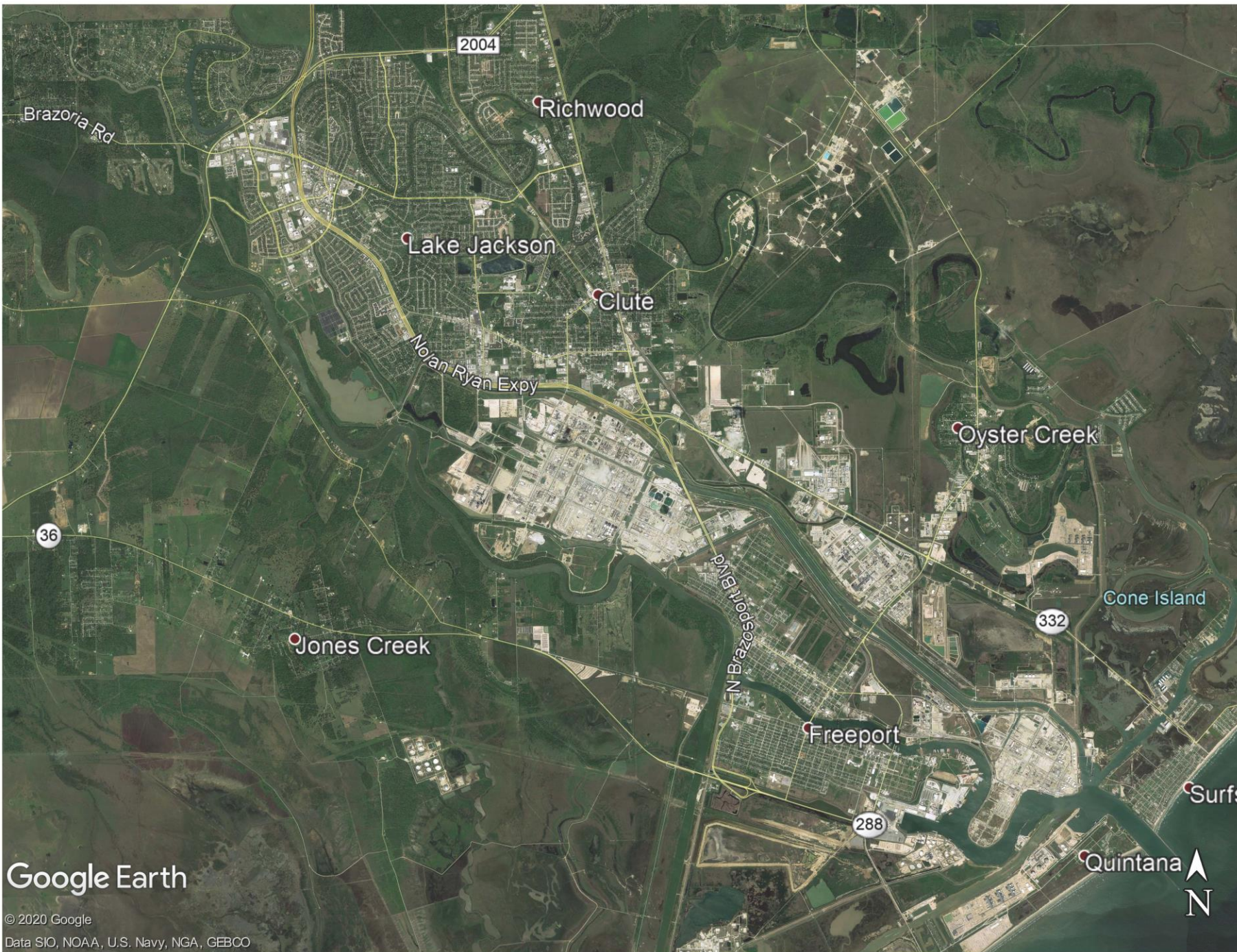
Sherry Russell
City Attorney
Lake Jackson, Texas
srussell@lakejacksontx.gov
979-415-2752

LAKE STUDIO

Dance Lessons or

The Ultimate Dance Party?





BRAZOSPORT AREA

Google Earth

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Data SIO, NOAA, U.S. Navy, NGA, GEBCO

LAKE JACKSON 1944



288

332

Google Earth

Image Texas General Land Office
Image NASA

LAKE
VIEW

LAWRENCE OF ARABIA

OPENING WEDNESDAY
MARY QUEEN OF SCOTS
7:30





TENANT CONTACTS CITY STAFF

- Inquiry at city hall
- Expanded idea



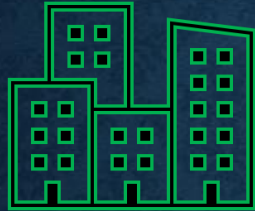


TENANT CONTACTS CITY STAFF

- Inquiry at city hall
- Expanded idea
- And by the way



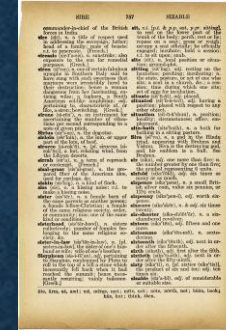
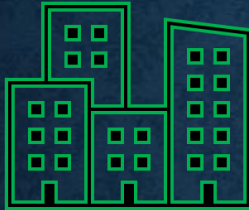
CITY FIRST LOOKED AT ZONING



ZONING

- **B-2 Central Business District**
- **Offices, studios, retail shops, service shops, drive-in eating places, groceries, day care center, hotels, theatres, and banks**
- **“Studios” is undefined**

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- **B-2 Central Business District**
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- **“Studios” is undefined**

STUDIO DEFINITION

- **Working place of a painter, sculptor or photographer**
- **A place for the study of an art (such as dancing, singing or acting)**

CERTIFICATE OF OCCUPANCY

- Ch. 302 of the International Building Code
- Statement from the city that says the building is ready to be used
- Needed when there is a new building or change of use for existing building
- Different occupancy classification groups
 - A, B, E, F, H, I, M, R, S, U
 - Choice of group based on the primary purpose of the building (or part of the building)

CERTIFICATE OF OCCUPANCY

- Building Official looked at the building plans, the asserted use for the building and the B-2 zoning ordinance
- He determined the correct classification was Business
 - Offices, professional or service transactions, banks, car washes, dry cleaning, post offices, training and skill development that is not in a school

SATURDAY AUG 3 2019



COUNTRY | LATIN | HIP HOP

EXTENDED HOURS

10PM - 4AM

// ULTIMATE DANCE PARTY //
2 DJ'S UNDER 1 ROOF

BYOB | BRING YOUR OWN ALCOHOL BEER & LIQUOR. *FREE SHOTS TILL 3AM*

EXTENDED HOURS (DRINKS ONLY PROVIDED)

NEW SPOT ALERT !!! ... See More

189 3 CIRCLE WAY LAKE JACKSON, TX 196 Comments

Like Comment Share

WEDNESDAY
JULY 31



Incorrect certificate of occupancy revoked

WHAT WILL THE CITY OF ENCHANTMENT DO?



Dance event cancelled

Collectors

Certificate of Occupancy

City of Lake Jackson

This business office has been inspected for compliance with the requirements of the 2018 International Building Code for the occupancy, division of occupancy, and the use for which the proposed occupancy is classified

Address: 3 Circle Way Suite C
Owner: Gashi Afirm & Milazim
Owner Address: 609 E. Business 190
Copperas Cove, TX 75622
Tenant: The Lake

Permit#: 18-0207
Occupancy Classification: B
Construction Type: IIA
Sprinkler: Yes
Occupant Load: 500 Max
265 With Tables & Chairs

Date: July 25, 2019

Building Official:


David Walton

**MONDAY
AUGUST 5**



Karetta Lux ENT.

Yesterday at 9:51 PM • 🌐

OFFICALLY HAPPENING THIS SATURDAY AUG,
17th!! SORRY FOR THE WAIT LAKE
JACKSON!!!!



**THURSDAY
AUGUST 15**

COMMUNICATIONS

FRIDAY, AUGUST 16

From the Building Official

From the City Attorney

- Letter explaining
 - Zoning
 - Occupancy Classification
 - Uses not allowed
 - Penalties

NOTICE TO CEASE AND DESIST



CITY OF LAKE JACKSON

Office of the City Attorney

5B OAK DRIVE • LAKE JACKSON, TEXAS 77566-5289 •
979-415-2757 • FAX 979-415-2657 • email: srussell@lakejacksontx.gov

August 16, 2019

Jeffrey Tisdale
1302 Waugh Drive
Houston, Texas 77019-3908

Mr. Tisdale,

A dance party is scheduled for August 17, 2019 at the property you are leasing at 3 Circle Way, Lake Jackson, Texas. The property is not zoned for dance parties and the certificate of occupancy does not allow assemblies.

You are hereby ordered to cease and desist using the property at 3 Circle Way for a dance party venue. If you do not cease and desist, your certificate of occupancy will be revoked. You may also be arrested and fined for the code violations.

A handwritten signature in blue ink that reads "Sherri Russell".

Sherri Russell
City Attorney

DANCE PARTY CANCELLED AGAIN

THE BIG MEETING TUESDAY, AUGUST 20TH

- 11 attendees

including

- Owner
- Mr. T
- Ms. L
- Leasing agent
- NAACP of
Brazoria County



THE BIG MEETING FOLLOW-UP

WEDNESDAY, AUGUST 21

- Letter to all attendees, through email and regular mail.
 - Can open and operate for dance tutoring and instruction
 - No open dance after instruction, even if students are practicing
 - Explained zoning and building code Group B occupancy
 - Explained remedy is to seek rezoning and then amendment of Certificate of Occupancy
 - Warned about enforcement actions
 - Owner, tenant, sub-tenant/operator
 - Stated building official will inspect to verify compliance

Certificate of Occupancy Revocation

DO NOT OCCUPY

The Certificate of Occupancy for this premise has been revoked for violations of the International Building Code. Any persons occupying this premise without express written approval of the building official shall be prosecuted for criminal trespass under Section 30.05 of the Texas Penal Code.



Notes/Reason: Operating an Assembly Occupancy in violation of the Approved Certificate of Occupancy

Address: 3 Circle Way
Date: 3 September 2019 Posting By: David Walton, Building Official

This notice may not be removed, defaced, or covered under penalty of law.

TUESDAY SEPTEMBER 3



CITY OF LAKE JACKSON
25 OAK DRIVE • LAKE JACKSON, TEXAS 77566-5389 • 978-415-2400 • FAX 978-257-9804

September 3, 2019

Jeffrey Tidale
1302 Waugh Dr.
Houston, TX 77019

Re: REVOCATION OF CERTIFICATE OF OCCUPANCY FOR 3 CIRCLE WAY #C

Dear Mr. Gashi,

This letter serves as official notice that the City of Lake Jackson, in accordance with International Building Code 111.4, has effectively and immediately revoked the Certificate of occupancy for the lease space located at 3 Circle Way #C, Lake Jackson, TX 77566 for operating as an assembly.

111.4 Revocation. The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code whenever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

You may appeal this decision through the City's Zoning Board of Adjustment.

Previously notice letters dated 8/16 and 8/21 were sent to you warning of revocation if activities not specifically allowed under the current zoning or occupancy classification for the space occurred. A routine occupancy inspection on 8/12/2019 showed a large party atmosphere with no indication of dance instruction.

Occupancy of a structure without a certificate of occupancy is prohibited and a violation of International Building Code 111.1.

111.1 Change of occupancy. A building or structure shall not be used or occupied, and a change of occupancy of a building or structure or portion thereof shall not be made, until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

The city will issue citations to all parties involved including the building owner, tenants, contractors, and employees for violations of the building code and Lake Jackson code of ordinances. The city may also take appropriate action to prevent further violations including but not limited to monitoring and securing the building against entry as set forth in Sec 110-13(c). Penalties for such violations are set forth as follows.

Sec. 110-13 - Penalty.

(a) Any person who shall violate any of the provisions of this chapter, or who shall build, alter, occupy or use any building or property in violation of any statement or plan submitted and approved under this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed two thousand dollars (\$2,000.00). Each day such violation shall be continued shall be deemed to constitute a separate offense.



CITY OF LAKE JACKSON
25 OAK DRIVE • LAKE JACKSON, TEXAS 77566-5389 • 978-415-2400 • FAX 978-257-9804

September 3, 2019

Afrim & Milazim Gashi
809 E Business 190
Coopers Cove, TX 76522

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RECLASSIFICATION REQUEST

SEPTEMBER 16

- Verbal request to reclassify Lake Studio to Group A (assembly)
 - Why Assembly?
 - Used for a gathering of persons for purposes such as civic, social or religious functions or to consume food and/or beverages.
 - Group A-2
 - Night clubs, taverns, and bars

NIGHTCLUB HAZARDS

- Low lighting levels
- Music at above-normal sound levels
- Late operating hours
- Tables and chairs create ill-defined aisles
- A specific area for dancing
- Alcoholic beverages
- High occupant load density.

SEPTEMBER 23



Written denial for verbal reclassification request



Local Government Code §211.101(b) gives 20 calendar days to appeal (October 3)

Request for an Appeal

October 7, 2019

May this serve as a request for an appeal on the classification denial.

Jeffrey Tisdale
Karetha Lux

Le'S Studio

RECEIVED

OCT 07 2019

City of Lake Jackson

Public Works

ZONING BOARD OF ADJUSTMENTS

- Ch. 211 Local Government Code
 - Check charter and zoning ordinance
- What are ZBOA powers?
 - Decide appeals from orders made when city enforces zoning
 - Authorize variances from the zoning ordinance

APPEAL TO ZONING BOARD OF ADJUSTMENTS

- Who can appeal to the ZBOA?
 - The aggrieved person
 - The owner of the property that is the subject of the appeal
 - The owner of real property within 200 feet of the property that is the subject of the appeal
 - Any officer, department, or board of the city that is affected by the decision

APPEAL TO ZONING BOARD OF ADJUSTMENTS

- ZBOA Procedures

- Within 60 days after the appeal is filed

- The official in the putative wrong transmits all records of the action to the ZBOA
 - The board sets a reasonable time for the hearing and gives notice
 - The board holds the hearing
 - The board gives notice of another meeting
 - The board makes a decision

CHALLENGES



Lake Jackson ZBOA renders its decisions the same day that it hears the appeal.



The ZBOA hears decisions based on zoning ordinance and Ch. 211 of Local Gov't Code, not the building code.

CH. 211 CHALLENGE

- **Occupancy classifications and zoning are intertwined.**
 - When the building official denied the occupancy re-classification, he denied based on the zoning ordinance.
 - So, this is an appeal from the building official's decision to enforce Ch. 211 and the zoning ordinance.

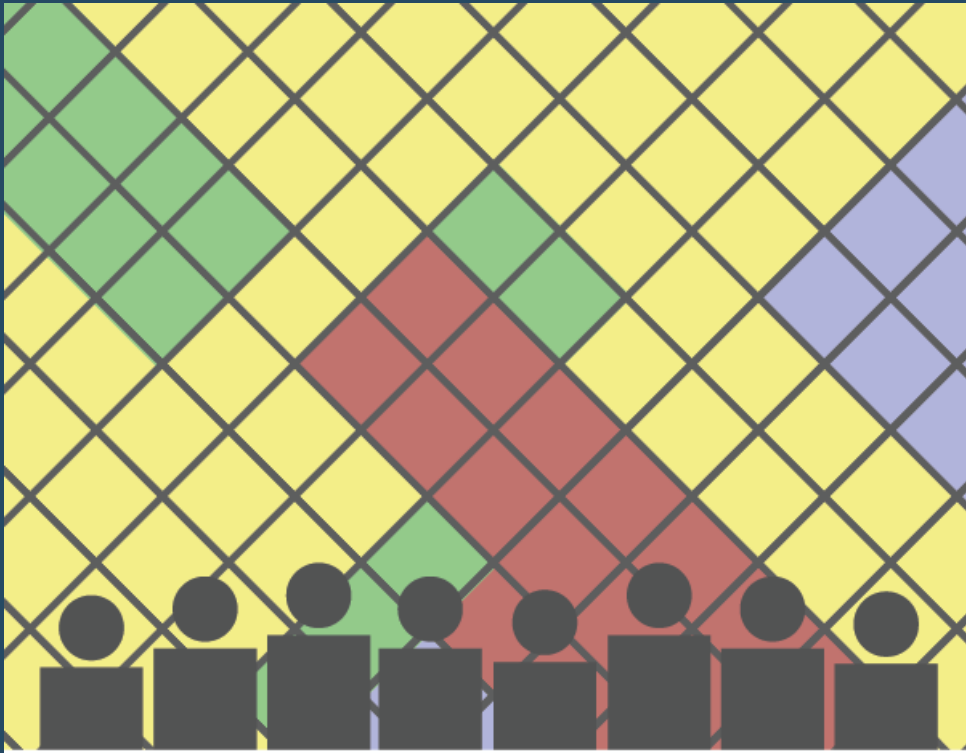
THE CITY'S GOALS FOR THE ZBOA HEARING



To ensure due process



To concentrate on the IBC and zoning ordinance not dancing and drinking.



ZONING BOARD
OF ADJUSTMENT

AT THE ZBOA

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NEW SPOT ALERT!!! ... See More

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Like Comment Share

THE STATE OF TEXAS
COUNTY OF BRAZORIA

)ZONING BOARD OF ADJUSTMENTS
)
)CITY OF LAKE JACKSON, TEXAS

ORDER

3 CIRCLE WAY, #3

Came before the City of Lake Jackson Zoning Board of Adjustments (ZBOA) on October 30, 2019 to hear an appeal of a decision of David Walton, Building Official. The appeal was brought by Jeffery Tisdale and Karetta Lux of Lake Studio. The issue for the appeal was the correctness of Mr. Walton's decision to deny reclassifying the property at 3 Circle Way #3 from "B Occupancy" to "A Occupancy".

Based upon the statements by David Walton and Jeffrey Tisdale made in the ZBOA's public hearing, the ZBOA finds that the Building Official's decision was correct.

THEREFORE, IT IS ORDERED THAT, the classification of 3 Circle Way #3 will remain a "B Occupancy".

ORDERED and EXECUTED this 31st day of October, 2019.



R. Keith Frank
Chair, Zoning Board of Adjustment

APPEAL OF ZONING BOARD OF ADJUSTMENTS DECISION

- Anyone can appeal
 - The aggrieved, taxpayers, and the city
- File a petition with county or district court within 10 days of the decision
 - Make sure decision is drafted, signed, and sent to applicant
- Court orders ZBOA to explain itself and send documents upon which decision is based
- Standard is abuse of discretion



WHERE ARE WE NOW