

**Board of Adjustment Meeting Minutes**  
**Monday, June 8, 1998**

The Siler City Board of Adjustment met on Monday, June 8, 1998, at 7:27 p.m. Minutes of the December 8, 1997 meeting were unanimously approved by a motion from Arnold Headen and second by Joyce Siler.

**Members Present**

Joel Hunnicutt, Chairman  
Arnold Headen, Vice Chairman  
Joyce Siler  
Roger Hinshaw  
James Patterson  
Leota B. Thompson  
Pat Lowman  
Steve Frazier, Alternate  
John Brown, Alternate

**Staff Present**

H. Bernard Rogers, Planning Director  
Joel J. Brower, Town Manager  
William C. Morgan, Town Attorney

**Town Board Present**

Earl Fitts, Mayor

**BUSINESS SESSION**

**Agenda Item III**

**A. Special Use Permit Request**  
**SUP-001-97 - Calvin R. Martin**

Joel Hunnicutt sworn in Mr. Rogers, Mr. and Mrs. Martin, for any information they give has to be in the form of sworn testimony.

Bernard Rogers, Planning Director, reported Mr. Calvin F. Martin requests a special use permit to move an existing billiard parlor from 117 West Raleigh Street to 111 South Chatham Avenue. The site is located between West Raleigh Street and Beaver Street on the east side of South Chatham Avenue. Mr. Martin has adequately completed an application for a special use permit. Both the existing and proposed locations are in the downtown area and zoned Central-Commercial.

The applicant's proposed location is an existing building which meets all dimensional and density requirements of the Unified Development Ordinance. Additionally subsection 278(a) waives the parking requirement for the Central-Commercial zoning district.

The special use permit is the first step in a two step process. Once the applicant has been granted a special use permit he will have to apply for his license. The Board of Commissioners will use some very specific criteria that found in our Town Code of Ordinance.

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Staff recommends approval of the special use permit pursuant to meeting all requirements of the Siler City Unified Development Ordinance. Please note that you may add conditions to approvals based on section 55 of the Unified Development Ordinance. For your convenience a SUP worksheet is attached. The worksheet will help you determine whether to deny or approve the proposed special use permit. **Board action is requested at this time.**

**Discussion**

Joel Hunnicutt asked Mr. Martin, the applicant, to describe to board what his plans were and the operation he would be putting in.

Mr. Martin explained to the board that he operates a billiard pallor and he would be moving the same business from it's present location to 111 South Chatham Avenue.

Mrs. Martin added Mr. Martin had own and operate the billiards at it's present location for 22 years.

Roger Hinshaw asked if they would be using the front entrance on South Chatham.

Mr. Martin responded there is a front and back entrance.

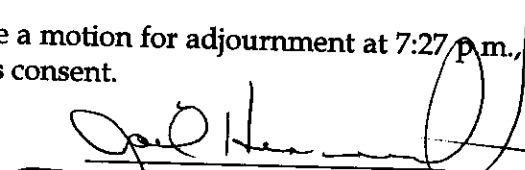
With no further discussion, Mr. Hunnicutt directed the board to their worksheet to go through each finding.

- Completeness of application - application was complete.  
*Motion made by Joyce Siler, Arnold Headen seconded, and majority approved.*
- Compliance with the ordinance requirements - application complies with all applicable requirements of Unified Development Ordinance.  
*Motion made by Roger Hinshaw, Joyce Siler seconded, and majority approved.*
- Consideration of proposed conditions - blinds or window treatment for front windows.  
*Motion made by Joyce Siler, Pat Lowman seconded, and majority approved.*
- Granting the application - **application is granted**, subject to the condition agreed upon.  
*Motion made by James Patterson, Joyce Siler seconded, and majority approved.*


**Agenda Item IV**

**Other Business**

With no new business, Roger Hinshaw made a motion for adjournment at 7:27 p.m., a second from Joyce Siler, and followed by unanimous consent.

  
Joel Hunnicutt  
Chairman

ATTEST:

  
Dee Lee Thompkins  
Recording Secretary

**Board of Adjustment Meeting Minutes**  
**Monday, July 13, 1998**

The Siler City Board of Adjustment met on Monday, July 13, 1998, at 8:50p.m. Minutes of the June 8, 1998 meeting were unanimously approved by a motion from Arnold Headen and seconded by Leota Thompson.

**Members Present**

Joel Hunnicutt, Chairman  
Arnold Headen, Vice Chair  
James Patterson  
Leota B. Thompson  
Pat Lowman  
Jimmy Pugh  
Steve Frazier, Alternate

**Members Absent**

Roger Hinshaw  
John Brown, Alternate

**Staff Present**

H. Bernard Rogers, Planning Director  
Joel J. Brower, Town Manager  
William C. Morgan, Town Attorney

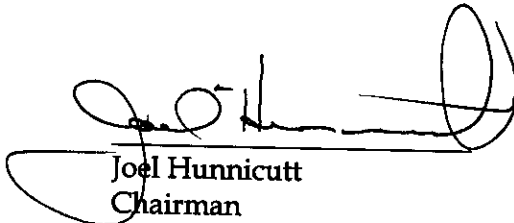
**Town Board Present**

Earl Fitts, Mayor  
Sam Adams, Commissioner  
Robert Siler, Commissioner  
Guy Smith, Commissioner

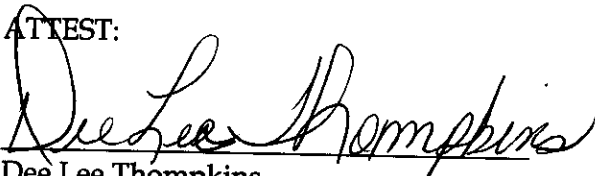
**BUSINESS SESSION**

Joel Hunnicutt, Chairman, reported there were no business items to be heard tonight.

Steve Frazier made a motion for adjournment at 8:52 p.m., a second from Pat Lowman, and followed by unanimous consent.

  
Joel Hunnicutt  
Chairman

ATTEST:

  
Dee Lee Thompkins  
Recording Secretary

**Board of Adjustment Meeting Minutes**  
**Monday, August 10, 1998**

The Siler City Board of Adjustment met on Monday, August 10, 1998, at 7:00p.m. in the Siler City Court Room at City Hall. Joel Hunnicutt, Chairman, called the meeting to order at 7:03 p.m. and Leota Thompson gave the invocation. Minutes of the July 13, 1998 meeting were unanimously approved by a motion from Arnold Headen and seconded by John Brown.

**Members Present**

Joel Hunnicutt, Chairman  
Arnold Headen, Vice Chair  
Roger Hinshaw  
Leota B. Thompson  
Jimmie Pugh  
Steve Frazier, Alternate  
John Brown, Alternate

**Members Absent**

James Patterson  
Pat Lowman

**Staff Present**

H. Bernard Rogers, Planning Director  
Joel J. Brower, Town Manager  
William C. Morgan, Town Attorney

**BUSINESS SESSION**

**Agenda Item IV**

**A. Appeal - Becky Spence**

Bernard Rogers reported Becky Spence requests an appeal from a decision of the Zoning Enforcement Officer. Mrs. Spence wishes to apply for a special exception permit to encroach lot boundary setbacks with an effective date in 1999. The site is located at 68 Pinewood Drive.

On July 20, 1998 staff informed Mr. Ed Spence, verbally, his property would not qualify for a special exception permit, due to provisions in § 83(d)(1) of the Unified Development Ordinance. The above provisions prohibit the issuance of an SEP where a residence has not existed five years prior to the application for the special exception permit. Mr. Spence's home has existed for three years and eight months.

Thus, Mr. Spence suggested a condition be added making the effective date of his special exception permit December, 1999. Staff concluded that a condition of this sort would set a precedent for future applicants. Additionally, such a precedent would make § 83(d)(1) of the UDO irrelevant.

For example, an applicant could request an effective date four years into the future. One problem with this sort of approval would be enforcement. Staff would need to monitor the property to make sure there is no premature construction.

The above mentioned precedent also poses potential conflict with § 83(c)(2). This subsection allows a petition, signed by adjacent property owners, as evidence that property values will not be adversely affected. The potential conflict could occur if a neighbor moves prior to the effective date of the SEP. Therefore, the new resident has not given consent for the special exception permit and § 83 (c)(2) has not been satisfied.

**Board of Adjustment Minutes**

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Staff requests that the Board of Adjustment affirm, reverse, or modify the appealed interpretation.

**Discussion**

Joel Hunnicutt asked Ed and Becky Spence to address the Board with regards to their appeal.

Mr. Spence explained they built their home four years ago with the intentions of adding a garage with an office and gameroom attached to their home. Since then they have hired an architect from Charlotte to do a sketch and has determined a garage with a breezeway would be more attractive to their home. They have a signed statement from all of their adjoining neighbors stating they did not believe their property values will be adversely affected by the garage. Mr. Spence stated he understood there were rules but he does not feel that waiting the five years would affect the neighborhood.

Mr. Roy McCollum asked to address the Board. He stated he is the neighbor on the side which the garage will go and he does not feel like he or his property will be affected. He asked the Board to please consider Mr. Spence request.

Joel Hunnicutt explained to the Board they were not granting or denying a special exception permit. He stated what Mr. and Mrs. Spence would like is an indication from the Board, of the future possibility of success if they apply for a special exception permit.

Mr. Morgan explained if the Board disagrees with Mr. Rogers' interpretation and if the appeal is successful, what you are finding is that you interpreted the ordinance to say if someone has not waited the five years they can still come in and get the permit for use at a future time. Mr. Morgan added, there is no way the board could do that because it would be in violation of the ordinance because the ordinance states five years. He also added that if the surrounding property owners change ownership then he or she has been deprived of the section of the ordinance which allows the surrounding property owner to have a voice on the special exception permit. Mr. Morgan suggested that they petition the ordinance for an amendment and change the five years to three years for an existing residence, then Mr. Spence would meet all the criteria for a special exception permit.

Steve Frazier asked if the Board had granted any special exception permits. Mr. Rogers explained the special exception permit had been incorporated into the ordinance about a year ago and the Board had granted one permit.

John Brown asked if the permit could be granted under § 83(c)(2) because the property values will be increased?

Mr. Morgan explained § 83 (c) are your findings and (d) are your requirements, this is the criteria that will guide you when he does apply for a special exception permit.

Steve Frazier stated if we are willing to tell Mr. Spence his money is well spent, then why not just go ahead and grant him the permit and forget about the year and four months.

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Joel Hunnicutt explained it was in violation of the ordinance. Mr. Hunnicutt suggested that the Board debate Mr. Morgan's suggestion on amending the ordinance to three years instead of the five years.

Jimmie Pugh stated he feels like we are spending alot of time trying to undo something that was incorporated into our ordinance. He asked, if we going to stick to the ordinance or are we going to go against it.

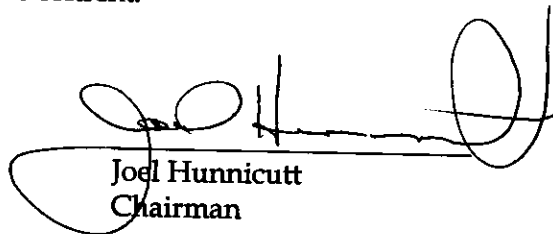
Joel Hunnicutt asked for a motion to affirm Mr. Rogers ruling or overturn his ruling. Roger Hinshaw made a motion to affirm Mr. Rogers ruling. Jimmie Pugh seconded with five to one voting in favor and one abstaining.

John Brown made a motion to recommend to the Town Board to amend the ordinance to three years instead of the five years. Roger Hinshaw seconded with all voting in favor.

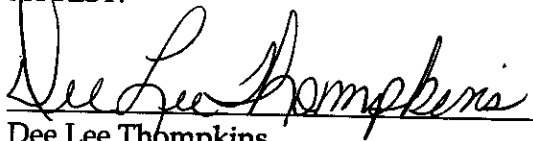
**Agenda Item V**

**Other Business**

With no further business, John Brown made a motion for adjournment at 7:55 p.m., a second from Arnold Headen, followed by unanimous consent.

  
Joel Hunnicutt  
Chairman

ATTEST:

  
Dee Lee Thompkins  
Recording Secretary

**Board of Adjustment Meeting Minutes**  
**Monday, September 14, 1998**

The Siler City Board of Adjustment met on Monday, September 14, 1998 at 7:05 p.m. Minutes of the August 10, 1998 meeting were unanimously approved by a motion from Jimmy Pugh and seconded by Leota Thompson.

**Members Present**

Joel Hunnicutt, Chairman  
Arnold Headen, Vice Chair  
Roger Hinshaw  
Leota B. Thompson  
Pat Lowman  
Jimmie Pugh  
Steve Frazier, Alternate

**Members Absent**

James Patterson  
John Brown, Alternate

**Staff Present**

H. Bernard Rogers, Planning Director  
William C. Morgan, Town Attorney

**BUSINESS SESSION**

**Agenda Item III**

**A. Special Use Permit Request**  
**SUP-002-98 - First Wesleyan Church**

Bernard Rogers reported First Wesleyan Church requests a special use permit to operate an Adult Day Care Center. The site is located at 618 North Third Avenue between East Sixth Street and East Seventh Street. First Wesleyan Church has adequately completed an application for a special use permit.

The applicant's proposed location is within an existing building which meets all dimensional and density requirements of the Unified Development Ordinance. However, the proposed use requires additional parking and screening, according to the UDO. Per correspondence date September 2, 1998, the applicant acknowledges his understanding of these parking and screening requirements. Staff feels this is a low intensity use which is suitable for a residential area.

Staff recommends approval of the special use permit. Please note that you may add conditions to approvals based on guidelines set by section 55. For your convenience an SUP worksheet is attached. The worksheet will help you determine whether to deny or approve the proposed special use permit. **Board action is requested at this time.**

**Discussion**

Joel Hunnicutt asked Rev. Dennis Boone to address the Board on regards to the special use permit for First Wesleyan Church.

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Rev. Boone stated the adult day care center was a project the church had been discussing for about four years and when the property adjacent to the parsonage became available the church voted to purchase it for the adult day care center. The day care will provide a service to the elderly that need some assistance with their living while their family is at work. They hope to open in November and with maximum a capacity of 24 clients. They will be required to have one staff for every eight clients.

Steve Frazier asked if they would be open five or six days a week and would the adult day care center be regulated like a child day care center.

Rev. Boone answered they will be open Monday through Friday and they will have the same hours as the child care center. The Health Department and Fire Marshall will do a yearly inspection of the facility and these are the same regulations as the child day care center.

With no further discussion, Mr. Hunnicutt directed the board to their worksheet to go through each finding.

- Completeness of application - application was complete.  
*Motion made by Arnold Headen, Jimmy Pugh seconded, and majority approved.*
- Compliance with the ordinance requirements - application complies with all applicable requirements of Unified Development Ordinance.  
*Motion made by Roger Hinshaw, Arnold Headen seconded, and majority approved.*
- Granting the application - **application is granted.**  
*Motion made by Arnold Headen, Jimmy Pugh seconded, and majority approved.*

**Agenda Item V**

**Other Business**

Mr. Rogers reported, as requested during our August meeting, staff has compiled information regarding the regulation of modular homes. Information was gathered from the NC Department of Insurance, The News & Observer, and planners throughout the state. Each of the above sources reaches common conclusions about modular homes.

One major difference between modular and manufactured homes is their construction standard. Modular homes are built to state and local building code specifications and manufactured homes must adhere to a federal standard established by HUD. There is a universal implication that state building regulations are more strict than federal regulations. However, the strictness of the code is not the important issue. The more relevant fact is that modular homes are constructed to the same standard (state and local building code) as site-built homes. Thus, there is no valid reason for a municipality to separate modular homes from site-built homes.

In some instances the only difference between modular and site-built homes is architectural appearance. This is also true among some site-built homes. It is my opinion that appearance is a matter of personal taste, unless it affects the public health, safety or welfare. Please note,



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protection of property values is a valid public welfare issue. Therefore a municipality may regulate appearance to protect property values. However, a municipality must employ a reasonable and objective review process which applies to all homes constructed in its jurisdiction. This means adding more restrictions on the use of private property in the form of appearance review and guidelines. As I stated previously any new restrictions must promote the public health, safety or welfare.

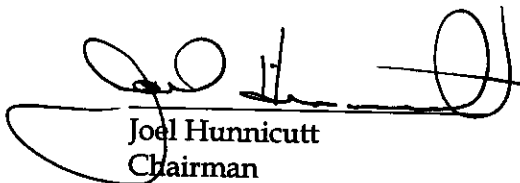
In contrast it is legal for a developer to draft restrictive covenants that prohibit modular homes in new subdivisions. Such covenants would be harder to establish in an older neighborhood, where implementation depends upon consensus among multiple property owners.

Mr. Rogers gave the Board Members copies of the information he had received.

Joel Hunnicutt asked Mr. Rogers to work on setting a time for a workshop to review our Mobile Home Ordinance.

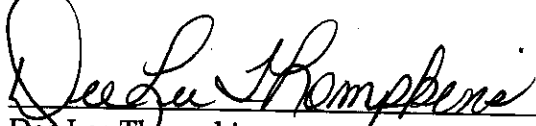
Arnold Headen suggested looking into putting a turn line at the intersection of Alston Bridge Road and North Second Avenue.

With no further business, Roger Hinshaw made a motion for adjournment at 8:00 p.m., a second from Jimmy Pugh, followed by unanimous consent.



Joel Hunnicutt  
Chairman

ATTEST:



Dee-Lee Thompkins  
Recording Secretary

**Board of Adjustment Meeting Minutes  
Monday, October 12, 1998**

The Siler City Board of Adjustment met on Monday, October 12, 1998 at 7:07p.m. Minutes of the September 14, 1998 meeting were unanimously approved by a motion from Arnold Headen and seconded by Leota Thompson.

**Members Present**

Joel Hunnicutt, Chairman  
Arnold Headen, Vice Chair  
Roger Hinshaw  
Leota B. Thompson  
Pat Lowman  
Jimmie Pugh  
James Patterson

**Members Absent**

Steve Frazier, Alternate  
John Brown, Alternate

**Staff Present**

H. Bernard Rogers, Planning Director  
William C. Morgan, Town Attorney

**BUSINESS SESSION**

**Agenda Item III**

**A. Special Exception Permit Request  
SEP-001-98 - Becky Spence**

Bernard Rogers reported Mrs. Becky Spence wishes to add a garage to her home. The property is located in the Pine Forest Subdivision at 68 Pinewood Drive. The proposed garage does not meet the required fifteen foot side setback, required by Section 170 of the Unified Development Ordinance. Therefore, Mrs. Spence's wishes to obtain a Special Exception Permit to encroach the setback by seven feet and six inches, thus resulting in a seven foot and six inch side setback.

Staff recommends approval of SEP-001-98. Mrs. Spence's application is complete and meets the findings required to grant a special exception. Included with the application is a petition, signed by adjacent property owners, stating that they have no problems with the proposed garage. This petition may be used to make the required finding in Section II(G) of the worksheet. The section entitled "Denying the Application" gives the three situations which could warrant denial of the application. For more information see Section 83 of the Unified Development Ordinance which refers to Special Exception Permits.

**Discussion**

Mr. Hunnicutt directed the board to their worksheet to go through each finding.

- **Completeness of application - application was complete.**  
*Motion made by Roger Hinshaw, Arnold Headen seconded, and majority approved.*
- **Findings Required By Section 83**
  - A. Existing building is a conforming residential use in a residential district.  
*Yes - Motion made by Arnold Headen, Pat Lowman seconded, and majority approved.*
  - B. Existing building has existed for at least three (3) years prior to the date of the application for a special exception permit.  
*Yes - Motion made by Roger Hinshaw, Arnold Headen seconded, and majority approved.*
  - C. Special exception requested applies only to a setback from a lot boundary.  
*Yes - Motion made by Arnold Headen, Roger Hinshaw seconded, and majority approved.*

D. The special exception being request does not exceed 50% of the required setbacks of section 170(a), nor would it permit any part of a building to be located closer to a lot boundary than a distance equal to one-half of the minimum building separation requirement of the North Carolina State Building Code (i.e.-5 feet).

*Yes - Motion made by Roger Hinshaw, Jimmy Pugh seconded, and majority approved.*

E. The special exception being requested would not permit any part of a building to be located closer to a pre-existing building than the distance equal to the minimum building separation requirement of the North Carolina State Building Code(i.e.-10 feet).

*Yes - Motion made by Arnold Headen, James Patterson seconded, and majority approved.*

F. The special exception, if granted will not create a threat to the public health or safety.

*Yes - Motion made by Jimmy Pugh, Roger Hinshaw seconded, and majority approved.*

G. The special exception if granted, will not adversely affect the value of adjoining or neighboring properties.

*Yes - Motion made by Leota Thompson, James Patterson seconded, and majority approved.*

• Consideration Of Proposed Conditions

If application is granted, the permit shall be issued subject to the following conditions:

1. The applicant shall complete the development strictly in accordance with the plans submitted and approved by this Board, a copy of which is filed in the Siler City Town Hall. Any deviations from or changes in these plans must be submitted to the Zoning Administrator in writing and specific written approval obtained as provided in section 60 of the Unified Development Ordinance.
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.
3. That the special exception is granted only to the extent necessary to provide for the proposed addition (including roof overhangs), and that no other additions, or enlargements of any other portion of the house is permitted by this special exception permit.
4. Other conditions as necessary or desired.

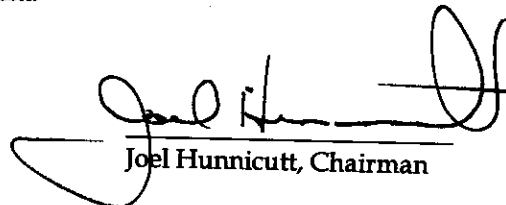
- Granting The Application - The application is granted subject to the above conditions.  
*Motion made by James Patterson, Pat Lowman seconded, and majority approved.*

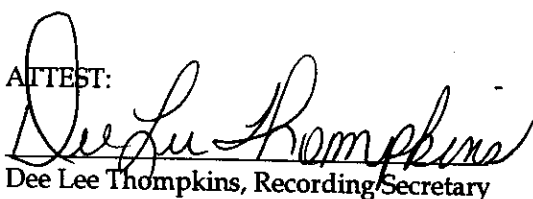
Agenda Item V

Other Business

Following discussion the Board suggested staff further study concerns the Board has regarding manufactured home ordinances and zoning districts.

With no further business, Arnold Headen made a motion for adjournment at 8:07p.m., a second from Leota Thompson, followed by unanimous consent.

  
Joel Hunnicutt, Chairman

ATTEST:  
  
Dee Lee Thompkins, Recording Secretary

**Board of Adjustment Meeting Minutes  
November 9, 1998**

The Siler City Board of Adjustment met on Monday, November 9, 1998 at 7:34 p.m. Minutes of October 12, 1998 meeting were unanimously approved by a motion from Roger Hinshaw and seconded by Leota Thompson.

**Members Present**

Joel Hunnicutt, Chairman  
Arnold Headen, Vice Chairman  
Roger Hinshaw  
Leota Thompson  
Jimmy Pugh  
Steve Frazier, Alternate

**Members Absent**

James Patterson  
Pat Lowman  
John Brown, Alternate

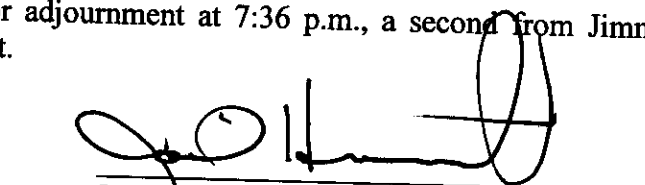
**Staff Present**

H. Bernard Rogers, Planning Director  
William C. Morgan, Town Attorney

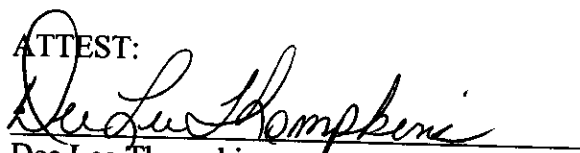
**BUSINESS SESSION**

Joel Hunnicutt, Chairman, reported there were no business items to be heard tonight.

Leota Thompson made a motion for adjournment at 7:36 p.m., a second from Jimmy Pugh followed by unanimous consent.

  
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Joel Hunnicutt  
Chairman

ATTEST:

  
\_\_\_\_\_  
Dee Lee Thompkins  
Recording Secretary