

South Carolina



Planning Education Advisory Committee

Committee Members:

Stephen G. Riley, Chairman
Representing MASC
Term Expires: 2017

Phillip L. Lindler
Representing SCAC
Term expires: 2015

Cliff Ellis
Representing Clemson
University
Term expires: 2016

Dennis Lambries
Representing USC
Term expires: 2016

Wayne Shuler
Representing SCAPA
Term expires: 2018

December 24, 2014

Leah Youngblood, Senior Planner
City of Rock Hill
155 Johnston Street
Rock Hill, SC 29732

Dear Ms. Youngblood:

Re: *Findings of Facts & Special Exception Criteria - 2014-08*

On December 10, 2014 I received the Program Materials you submitted for accreditation of the Continuing Education Course detailed above. Upon receipt of your application, I sent an email to confirm receipt by all Committee members and set a deadline for comments.

Under the "no objection policy" adopted on July 8, 2009, your request is considered approved. Your signed "Notice of Decision" is attached. Formal, after-the-fact approval will be handled as part of a Consent Agenda at the regular quarterly meeting of the Committee, which will be scheduled for January 21, 2014 at 1:30 p.m.

Thank you for your efforts to help make this program a success.

Sincerely,

A handwritten signature in black ink that reads "Stephen G. Riley".

Stephen G. Riley, CM
Chairman

cc: Phillip Lindler, Cliff Ellis, Dennis Lambries and Wayne Shuler

South Carolina Planning Education Advisory Committee (SCPEAC)

NOTICE OF DECISION

12. The following action has been taken by the SCPEAC on this application:

ACCEPTED WITHOUT OBJECTION Date: December 24, 2014

REVIEWED BY FULL COMMITTEE Date:

a) X ACCREDITED for 1.5 CE credits

b) DENIED ACCREDITATION

i. Reason: _____

c) RETURNED for more information

13. If accredited:

a) Authorized Course No.: 2014-08

b) Date of accreditation: 12-24-2014

Signature of SCPEAC Representative: 

**For further information, contact Mr. Stephen Riley, Chairman,
843-341-4701 or steve@hiltonheadislandsc.gov**

**LOCAL OFFICIAL'S CERTIFICATION OF NEED
FOR CONTINUING EDUCATION PROGRAM**

NOTE: The Planning Director of a jurisdiction, or the COG Director serving a jurisdiction, may certify to the SCPEAC that a particular continuing education program is appropriate to meet the needs of that jurisdiction.

This certification form, together with the required information referenced therein, shall be submitted to the Committee. **If no objections are raised** by a member of the SCPEAC within 10 working days of receipt, the continuing education program shall be considered accepted. If an objection is raised, a teleconference meeting shall be scheduled, with appropriate public notice, as soon as reasonably possible, to review the application.

1. Certifying Official's Information:

- a. Name: Leah Youngblood
- b. Title: Senior Planner
- c. Jurisdiction for which certification is being made: City of Rock Hill
- d. Address of Jurisdiction: 155 Johnston Street
- e. City: Rock Hill
Zip Code 29732
- f. Telephone: 803-329-5569
- g. Email: lyoungblood@cityofrockhill.com
- h. For COG Directors:
 - i. Name of COG: _____
 - ii. Address of COG: _____
 - iii. City: _____
Zip Code: _____
 - iv. Telephone: _____
 - v. Email: _____

2. Information on Educational Program:

- a. Title of Program: Findings of Fact & Special Exception Criteria
- b. Name of Organization that is providing or sponsoring the Program:
 - i. Organization: City of Rock Hill
 - ii. Street Address: Same as above

iii. City: _____
State: _____
Zip Code: _____

iv. Contact Person: Same as above

v. Title: _____

vi. Telephone: _____

vii. Email: _____

c. Date(s) and Location(s) of Program:

January 20, 2015

d. Briefly describe the program and why it is relevant to your jurisdiction:

Our ZBA has several new members who need to learn how to analyze cases properly.

3. Method of presentation (check all that apply. All sessions must have a Coordinator present):

- a. Presentor(s) in room with participants
- b. Live presentation via close circuit TV, video conferencing, or similar; Coordinator present
- c. Videotape or CD/DVD presentation; Facilitator present
- d. Webinar or similar; Coordinator present
- e. Other (describe) _____

4. Description of materials to be distributed (check/fill in all that apply):

a. Powerpoint handout:	<input checked="" type="checkbox"/>	number of slides: 32
b. Other handouts:	<input checked="" type="checkbox"/>	total pages: Approx. 50
c. CD/DVD:	<input type="checkbox"/>	
d. Other (describe)	_____	
e. None:	<input type="checkbox"/>	

5. When are materials distributed?

- a. Sent before the program:
- b. Handed out at the program:
- c. Other (describe) _____

6. Required attachments (5 copies distributed as described below):

- a. Course description and outline including estimated time per section
- b. Brochure, if available

- c. Course Presenter(s) and credentials (include brief resumes and qualifications)
- d. Copies of all handouts and course materials
- e. Evaluation Form and method of evaluation (each program must be evaluated)

7. Instruction Time:

a. Indicate the total minutes of instruction time: 90 mins.

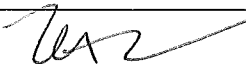
Note: Breaks, meals and introductions should not be counted. A reasonable period of Q and A should be included and counted.

8. Local contact person (if other than Certifying Official):

- a. Name: _____
- b. Title: _____
- c. Jurisdiction: _____
- d. Telephone: _____
- e. Email: _____

9. Certification. By Submitting this application, the applicant agrees to:

- a. Allow in-person observation, without charge, of the Program by the SCPEAC Committee members. Any food, travel or lodging costs will be the responsibility of the Committee member(s).
- b. The Certifying Official acknowledges that its approval for this Program may be withdrawn for violations of the regulations or failure to comply with the agreements and representations contained herein and as may be required by the SCPEAC.
- c. I do hereby certify that this program satisfies the current continuing education needs of this community.

- i. Name: Leah Youngblood
- ii. Title: Senior Planner
- iii. Signature: 
- iv. Date: December 8, 2014

Application and all Materials may be submitted in one of the following means:

- 1. Electronic submission to each of the committee members listed below via email; or
- 2. Hardcopy via U. S. Mail, 1 copy each to each committee member; or
- 3. Electronic submission of the application via email to all committee members, and submit hardcopy supporting materials via U.S. Mail to each member, if materials not available electronically.
- 4. Please cc all applications to the Chairman's assistant, Vicki Pfannenschmidt at vickip@hiltonheadislandsc.gov

To access committee members email and postal addresses visit the link below:
<http://www.scstatehouse.gov/scpeac/members.htm>



**COURSE DESCRIPTION AND OUTLINE:
CONTINUING EDUCATION SESSION ON
FINDINGS OF FACT AND SPECIAL EXCEPTION CRITERIA**

This session will help our Zoning Board of Appeals' members learn more about how they should be analyzing the cases that come before them in terms of making findings of fact for variance requests and evaluating the specified criteria for special exception requests. It also will cover more unusual types of cases that that the Board sometimes sees and it will briefly discuss issues of decorum and other general tips for the Board that the members need to understand.

The session will involve both listening to a PowerPoint presentation given by the coordinators and going over several examples of past cases on each topic.

- a. Findings of Fact:**
 - i. PowerPoint presentation: 15 minutes
 - ii. Case scenarios: 20 minutes
- b. Special Exception Criteria:**
 - i. PowerPoint presentation: 15 minutes
 - ii. Case scenarios: 20 minutes
- c. Other Situations: 10 minutes**
 - i. Management of Impacts Plans presentation
 - ii. Animal Care Uses
 - iii. Appeal of Decision of Director
- d. Issues of Decorum and General Tips: 5 minutes**
- e. Wrap-up/Other Questions: 5 minutes**

Finding of Facts & Special Exception Criteria

Continuing Education Session for the
Zoning Board of Appeals

January 20, 2015
Paul Koska & Leah Youngblood



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FINDINGS OF FACT FOR VARIANCES



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Findings of fact

- State law requires that in order to grant a variance, the ZBA must make four findings of fact.
- **ALL FOUR must be true.**
- Let's break these down one by one.



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Finding of fact #1:

special characteristics

- There are extraordinary and exceptional conditions pertaining to the particular piece of property.
- Elements:
 - ***Extraordinary and exceptional*** conditions
 - Pertaining to the ***particular*** piece of ***property***



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Finding of fact #1:

special characteristics

- Examples
 - **Severe topography**
 - **Unusual shape of parcel**
 - **Infrastructure considerations (water/sewer line in the way and cannot be moved elsewhere)**



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Finding of fact #2:

uniqueness

- These conditions do not generally apply to other property in the vicinity.
- Elements:
 - The *extraordinary and exceptional* conditions
 - That apply to this *particular* piece of *property*
 - *Do not apply to other property* in the *vicinity*.



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Finding of fact #2:

uniqueness

- Examples—think of this as the opposite of the first Finding
 - **If the extraordinary/exceptional condition on the subject property is severe topography, then nearby parcels do not also have severe topography.**



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Finding of fact #3:

hardship

- Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
- Elements:
 - ***Due to*** the property's ***extraordinary and exceptional*** conditions,
 - if we applied the ordinance's requirements to this particular piece of property,
 - the ***use*** of the property would be ***effectively prohibited*** or ***unreasonably restricted***.

NOTE: just because a property can be used more profitably if the variance is granted is not grounds for hardship.



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Finding of fact #3:

hardship

- Examples:
 - If the ZBA does not grant the request for a variance to reduce the required setback for a residence, the homeowners will not be able to build on their lot due to an existing power line easement that takes up more than half of the buildable area.
 - If the ZBA does not grant a variance to place a sign closer to a setback line than otherwise would be allowed, no one will be able to see the sign due to a strand of trees that are in the way but that the City will not allow to be removed.



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Finding of fact #4:

public harm

- The authorization of the variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.
- Elements:
 - Authorizing this variance will not:
 - Be of substantial detriment to the *adjacent property* OR
 - Be of substantial detriment to the *public good*.
 - AND doing so will not harm the *character of the district*.



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Finding of fact #4:

public harm

- Examples:

- Granting a setback variance for a grocery store will not harm adjacent property because the adjacent parcels are set back the same distance and the grocery store would be set back far enough to not create visibility problems for vehicles.
- Granting a variance for a fence to be taller than our ordinance allows would not harm the public good because the reason for the fence is to contain the homeowner's dangerous dog who is able to scale four-foot tall fences but not six-foot tall ones.



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Prohibitions

1. Allow a use not permitted by right, Conditional Use Permit, or by Special Exception Permit in the district in which the land subject to the Variance Permit is located.
2. Extend physically a nonconforming use of land.
3. Change the zone district boundaries on the Official Zone District Map.



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Prohibitions are different from Findings

- ◎ You do not need to make findings on the criteria that are prohibited. If any of these situations were implicated in a particular situation, staff would not bring the application forward to you for consideration. They are basic gatekeeper questions, the answers to which require no deliberation from the Board. They are in your staff report for your information only and for the permanent record.



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Findings of fact

- Questions/comments



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FINDINGS OF FACT SCENARIOS



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SPECIAL EXCEPTION CRITERIA



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1. Special Exceptions for Uses

Only criteria that you deem applicable must be met. In most cases, all will be relevant, though.

- Example of when one may not be: If the site has an existing building and parking lot, we will not require a full professional site plan to be submitted as part of the ZBA application unless there's a good reason for it.



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Criteria

(a) Complies with Use Specific Regulations : The proposed special exception complies with all use-specific standards.

(b) Compatibility: The proposed special exception is appropriate for its location and compatible with the character of surrounding lands and the uses permitted in the zone district(s) of surrounding lands.

(c) Design Minimizes Adverse Impact: The design of the proposed special exception minimizes adverse effects, including visual impacts of the proposed use on adjacent lands; furthermore, the proposed special exception avoids significant adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, and vibration, and does not create a nuisance.

(d) Design Minimizes Environmental Impact: The proposed special exception minimizes environmental impacts and does not cause significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

(e) Roads: There is adequate road capacity available to serve the proposed special exception, and the proposed special exception use is designed to ensure safe ingress and egress onto the site and safe road conditions around the site.

(f) Not Injure Neighboring Land or Property Values: The proposed special exception will not substantially and permanently injure the use of neighboring land for those uses that are permitted in the zone district, or reduce property values.

(g) Site Plan: A site plan has been prepared that demonstrates how the proposed special exception use complies with the other standards of this subsection.

(h) Complies With All Other Relevant Laws and Ordinances: The proposed special exception use complies with all other relevant City laws and ordinances, state and federal laws, and regulations.



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2. Special Exceptions to Reduce Required Separations

- Separation is required from some types of uses to other types of uses.
- Examples:
 - From extended hours restaurants to most residential zones.
 - From arenas/stadiums to residential uses and vacant land in residential zoning districts.
 - From automobile painting/body shops from residential districts.



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Criteria

The ZBA may reduce or even eliminate the required separation by special exception based on the following criteria:

- 1) There are no adverse impacts to the residential or institutional properties within the specified separation distance that are greater than those generally experienced in the area from other permitted uses in the district, including but not limited to noise, light, and traffic;
- 2) Any impacts of the use can be mitigated through buffering, screening, or other mechanisms that are made a part of the site plan for the property; and
- 3) The separation requirements for the following uses are not subject to reduction through special exception: Adult entertainment, tattoo parlor, body piercing establishment, check cashing establishment, title loan lender, deferred presentment lender, debt relief or small loan company, or pawn shop.



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3. Special Exceptions to Reestablish Commercial Use in Residential District

- A nonconforming use in an established residential district may be permitted to be reestablished by a Special Exception under the following criteria:
 - (a) The proposed use is permitted by right in the Neighborhood Commercial (NC) zoning district, and the proposed use is no more intense than the historical use of the property.
 - (b) The existing structure is specialized to nonconforming use such that conversion to the conforming use would not be economically feasible. Historical nonconforming uses in converted residential structures would generally not be seen as meeting this standard.
 - (c) No functional expansion of the use is permitted. Modifications for code compliance and aesthetic enhancement are permitted.
 - (d) There is a demonstrated history of compatibility with the surrounding neighborhood including, but not limited to, a lack of documented complaints, calls for police service, or other operational concerns such as traffic, parking, or other similar impacts.
 - (e) Reestablishment of use may be permitted for a trial period to determine if impacts are mitigated to the extent anticipated.



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Special exceptions criteria

- Questions/comments



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SPECIAL EXCEPTION CRITERIA SCENARIOS



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OTHER SITUATIONS



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1. Management of Impacts Plans

- New requirement for bars and extended-hours restaurants that serve alcohol. They must provide a written plan to manage potential impacts on the surrounding neighborhoods and businesses, including:
 - a. Acknowledgement of the City noise ordinance standards and monitoring noise created by the establishment and its patrons.
 - b. Provision of lighting to secure parking lots and other outside areas while complying with Zoning Ordinance lighting standards.
 - c. Provision of appropriate security to control crowds based on size and type of activity, including the discouragement of parking lot loitering.
 - d. Advising patrons to park only in appropriate locations on the establishment's property or neighboring properties where written permission has been granted.



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2. Animal Care Uses: >20 animals

- Can request special exception to have more than 20 animals. In addition to usual special exception use criteria, Board looks at:
 - a. Compatibility with residential and other uses that would be especially sensitive to noise and odors, such as offices or establishments that sell food.
 - b. Whether the business practices demonstrate an ability to minimize noise and odor nuisances, especially when the proposed location is near residential and other uses that would be especially sensitive to noise and odors, such as offices or establishments that sell food.
 - c. Whether the business practices demonstrate how the applicant will handle animal waste without significant adverse impact on the environment.



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2. Animal Care Uses: Distance from property lines

- Not locate open runs or buildings used for housing of animals within eighty (80) feet of any adjoining private property lot line. However, this distance may be reduced based on (a) an intervening major road or highway, or (b) where the adjacent land use is not noise-sensitive, such as a heavy industrial use or an automotive services use.
 - For uses that have twenty (20) animals or fewer, this reduction may be sought by way of a Variance application.
 - For uses with more than twenty (20) animals, this reduction may be sought as part of the Special Exception process to have a higher number of animals.



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3. Appeal of Decision of Director

- Anyone who disagrees with a call of the Director may appeal to the ZBA for relief from the decision. The ZBA may reverse or affirm, wholly or in part, or may modify the order, requirements, decision or determination of the Director.



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ISSUES OF DECORUM AND GENERAL TIPS



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Issues of decorum

- Use the microphones.
 - So the audience can hear you deliberate and for the permanent record.
 - No side conversations. This can appear as though you are hiding some deliberations from the public and makes it hard for everyone else to hear.
- Remember that you were appointed by Council and that you should be respectful to the applicant, anyone else from the public in attendance, staff, and the City organization at all times.
 - Do not say things you would not want to see in the newspaper or in Court.



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General tips

- ZBA can place reasonable conditions on variances and special exceptions of all types. Use this power whenever you see that a condition is warranted.
- Remember that your role is very important. You have the final say about the cases that are before you, appealable only to Circuit Court.
 - Keep certain thoughts to yourself. Guard against opening the City up to potential liability due to saying things like “wow—we really screwed that up” or “that’s a strange one” or “these findings are silly for this fact set.” Even if you feel that way, it’s not helpful to publically announce it.
 - Support the Ordinance provisions unless you truly see that the request meets the standards of the Ordinance for granting relief.



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ANYTHING ELSE YOU'D LIKE TO TALK ABOUT?

Questions/Comments from Entire Session



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Location: 1505 Stonehill Place

Request: Variance from accessory structure size requirements

Tax Map Number: 630-01-02-014

Zoning District: Single Family-3 (SF-3)

Applicant and Owner: Linda & Ron Griffin
1505 Stonehill Place
Rock Hill, SC

Background

Linda and Ron Griffin own a single-family home at 1505 Stonehill Place. In January, the Griffins were approved to construct a 598-square-foot detached garage. The Griffins would like to increase the size of the detached garage to 696 square feet. The Zoning Ordinance allows accessory structures, including garages, to be up to 600 square feet. Therefore, the Whites are requesting a variance of 96 square feet from the accessory structure size requirement.

Site Description

The property is located on the northeastern corner of Madeline Drive and Annalinde Lane.

The property is surrounded by single-family residential uses in the SF-3 zoning district.

Enclosed (via Web site link) is a list of uses permitted in the SF-3 zoning district.

Relation to Zoning Ordinance

4-400 (B)(5)(c): Size of Accessory Buildings

For accessory structures accessory to residential units, the combined floor area of all detached accessory structures shall occupy no more than thirty percent (30%) of the floor area of the principal structure or six hundred (600) square feet, whichever is greater.

Existing Zoning District Summary

SF-3, Single-Family 3

The SF-3 district is established as a district in which the principal use of land is single-family detached residential development at a moderate density. The regulations of this district are intended to discourage any use that would substantially interfere with the development of single-family detached dwellings and that would be detrimental to the quiet residential nature of the district. Complementary uses customarily found in residential zone districts, such as community facilities, religious institutions, parks and playgrounds, and elementary schools, are also allowed. The minimum lot area for development is fourteen thousand (14,000) square feet and the maximum density allowed is three (3) units per acre.

Analysis of Request for Variance

2-300 (E) (4) Variance Standards

(a) Findings

A Variance Permit shall be approved only upon a finding, made in writing, that the applicant demonstrates that all of the following standards are met:

1. *Extraordinary and Exceptional Conditions*

There are extraordinary and exceptional conditions pertaining to the particular piece of land.

2. *Unique Conditions*

These conditions do not generally apply to other property in the vicinity.

3. *Strict Application Deprives Use*

Because of the conditions, the application of this Ordinance to the land would effectively prohibit or unreasonably restrict the utilization of the land.

4. *Not Detrimental*

The authorization of the Variance Permit will not result in substantial detriment to adjacent land, or to the public good, and the character of the district will not be harmed by the granting of the variance.

(b) *Not Grounds for Variance*

The following do not constitute grounds for a Variance Permit:

1. *Property Could Be Utilized More Profitably*

The fact that land may be utilized more profitably should a Variance permit be granted.

(c) *Prohibitions*

No Variance Permit shall be granted to:

- 1. Allow a use not permitted by right, Conditional Use Permit, or by Special Exception Permit in the district in which the land subject to the Variance Permit is located.**
- 2. Extend physically a nonconforming use of land.**
- 3. Change the zone district boundaries on the Official Zone District Map.**

Public Involvement

The following public notification actions have been taken:

- January 29: Public Hearing notification postcards sent to property owners within 300 feet of the subject property.
- February 1: Zoning Board of Appeals public hearing advertisement published in *The Herald*.
- February 3: Public Hearing notification signs posted on subject property.

Public Feedback

None received.

Attachments

- Application and supporting documents from applicant
- Zoning Map

Staff Contact:

Justin Westbrook

Justin.Westbrook@cityofrockhill.com

(803) 329-5687



**COORDINATORS:
CONTINUING EDUCATION SESSION ON
FINDINGS OF FACT AND SPECIAL EXCEPTION CRITERIA**

Leah Youngblood, Esq., AICP

Leah Youngblood, who is a licensed attorney in South Carolina as well as a certified planner, has worked in the planning field since graduating with a master's degree in public administration and law from the University of South Carolina in 2007. She worked for the Town of Lexington while in graduate school as a part-time zoning administrator, which became a full-time position upon her graduation. She continued to work for that jurisdiction until 2010, ultimately serving as the town's director of planning, building, and technology. In that capacity, she handled all of the City's planning and zoning functions as well as additional special projects. Since 2010, she has worked as a senior planner for the City of Rock Hill, supervising all current planning functions of the City. Leah also served on the S.C. Chapter of the American Planning Association's Executive Committee from 2010 to 2014.

Paul Koska, LEED Green Associate, Associate AIA

Paul Koska is a new employee of the City of Rock Hill. He is in training to become the City's liaison to the Zoning Board of Appeals. Paul holds a master of architecture degree from the University of North Carolina at Charlotte and a bachelor of arts in visual communications from the University of South Carolina. He worked for four years as an architectural intern at Stewart Cooper Newell Architects in Gastonia, North Carolina, and at LS3P Associates in Charlotte, North Carolina, before deciding to transition to a career in planning.



CONTINUING EDUCATION EVALUATION FORM

Name of Program: _____ Date: _____

Facilitator(s): _____

Please rate the following on a scale from 1 to 5 by circling the appropriate number:
 1= strongly disagree (SA); 2= disagree (D); 3= neutral (N); 4= agree (A); 5 = strongly agree

	SD	D	N	A	SA
1. The topic of this continuing education session was interesting and/or relevant to my role with the City of Rock Hill.	1	2	3	4	5
2. The coordinator demonstrated comprehensive knowledge of the subject matter.	1	2	3	4	5
3. The coordinator conveyed the material effectively.	1	2	3	4	5
4. The coordinator was well-prepared and the session was well-organized.	1	2	3	4	5

What was the most valuable part of this session?

What could have been done to improve this session?

Ideas for future continuing education topics: