

MEETING DATE: 8-10-16

BOARD OF ZONING APPEALS

Z16-12

**Progress Dr.
PP#029-19A-16-030**



CITY of MEDINA

Board of Zoning Appeals

August 10, 2016 Special Meeting

Case No: Z16-12

Address: 865 W. Liberty Street & Progress Dr. (PID# 029-19A-16-030)

Applicant: Fechko Excavating, Inc

Subject: An appeal of Planning Director's administrative decision

Zoning: I-1 (Industrial) District

Submitted by: Jonathan Mendel, Community Development Director 

Site Location:

In the center of the block bounded by State Road to the east, Progress Drive to the north and West Liberty Street to the south. The site adjacent to Fechko's property at 865 W. Liberty Street.

Project Introduction:

On March 15, 2016, the applicant submitted a request for a zoning certificate to permit a concrete crushing/recycling land use at the subject property (PID# 029-19A-16-030). This request was submitted under the applicant's assumption that the proposed use is a permitted use within the I-1 (Industrial) zoning district. The applicant appeared to base this assumption on the Medina County Court of Common Pleas Judge Kimbler decision regarding the July 8, 2015 City of Medina Board of Zoning Appeals review and decision regarding the applicant's administrative appeal request for the same concrete crushing/recycling land use.

Reviewing the applicant's 2016 zoning certificate request and Judge Kimbler's decision on the 2015 BZA decision on the same subject, staff concluded that the concrete crushing/recycling land use is still defined under Section 1105.097 of the City of Medina Planning and Zoning Code as 'Manufacturing, Heavy'. A notice letter outlining this administrative decision regarding the land use definition was sent to the applicant March 23, 2016, with a supplemental notice letter sent May 24, 2016 clarifying the administrative decision in the March 23, 2016 letter.

Analysis:

Staff reviewed the applicant's March 15, 2016 zoning certificate request submittal and determined that the proposed operation, land use and site layout is consistent with the 'Manufacturing, Heavy' land use definition in Section 1105.097 of the City of Medina Planning and Zoning Code:

1105.097 MANUFACTURING, HEAVY.

"Heavy manufacturing" means a building or land used for the assembly, fabrication or processing of goods and materials using processes that ordinarily create smoke, noise, fumes, odor, glare or potential safety hazards (e.g. explosive materials processing).

The definition of the use is based on field visits and consideration of the concrete crushing/recycling use in operation on April 29, 2015. Staff's experience on April 29, 2015 at the applicant's site and visits to other similar concrete crushing/recycling operations maintains and reinforces staff's professional opinion that the applicant's concrete crushing/recycling use is defined as 'Manufacturing, Heavy' under Section 1105.097 of the City of Medina Planning and Zoning Code, because it is land used for the assembly, fabrication or *processing* of goods and materials using processes that ordinarily create smoke, noise, fumes, odor, glare or potential safety hazards (e.g. explosive materials processing), as well as dust.

Please find attached to this report:

1. Applicant's April 4, 2016 appeal request
2. Applicant's June 1, 2016 appeal request
3. Aerial photograph of the property

Considerations:

Section 1107.08(I)(4) of the Planning and Zoning Code outlines the standards of review for the Board of Zoning Appeals when reviewing an appeal of an administrative decision. The Board shall weigh the following factors to determine whether an appeal should be granted and the zoning official order is to be reversed:

A. Was arbitrary or capricious; or

Staff's analysis of the concrete recycling/crushing land use was not arbitrary or capricious, because staff conducted a logical and reasonable process for analyzing the land use in relation to the Planning and Zoning Code. After reviewing the I-1 zoning district permitted and conditionally permitted use tables (Sections 1141.02 & 1141.03), reviewing the "Manufacturing, Heavy" (Section 1105.097) versus "Manufacturing, Light" (Section 1105.098), and witnessing the applicant's operation from possible vantage points immediately to the west, north and south, staff confirmed that the applicant's proposal is land used for the assembly, fabrication or *processing* of goods and materials using processes that ordinarily create smoke, noise, fumes, odor, glare or potential safety hazards (e.g. explosive materials processing), as well as dust, which has the same qualities and creates potential safety hazards, all of which defines the land use as "Manufacturing, Heavy".

B. Was based on an erroneous finding of a material fact; or

The administrative decision was not based on an erroneous finding of material fact. Staff specifically witnessed the applicant's land used for the assembly, fabrication or processing of goods and materials using processes that ordinarily create smoke, noise, fumes, odor, glare or potential safety hazards (e.g. explosive materials processing), as well as dust.

C. Was based on erroneous interpretation of this Ordinance or zoning law; or

Staff decision was not based on erroneous interpretation. The applicant's land use is not explicitly listed (as "concrete crushing/recycling") in either the permitted or conditionally permitted use table in the I-1 zoning district (Sections 1141.02 & 1141.03). Therefore, since any use of land must be classified by the Planning and Zoning Code there are the two manufacturing categories (heavy and light) which are specifically intended to encompass land uses not specifically listed in the I-1 zoning district use tables or defined in the Definitions (Chapter 1105) portion of the Planning and Zoning Code.

D. Constituted an abuse of discretion.

Staff's administrative decision did not constitute an abuse of discretion. The interpretative discretion provided by the Planning and Zoning Code to staff was not abused in this case, because staff used a logical, reasonable and reasoned method for analyzing the Planning and Zoning Code as it relates to the zoning categorization of the applicant's concrete crushing/recycling land use as being "Manufacturing, Heavy", based on direct observation and facts.

The BZA must weigh the above five factors for the requested appeal to determine whether to reverse the staff administrative decision to define the applicant's concrete recycling/crushing land use as "Manufacturing, Heavy" as defined in Section 1105.0987 of the Planning and Zoning Code.

Applicant's
April 4, 2016 appeal
request



CITY OF MEDINA
Community Development Department
 132 North Elmwood Street
 Medina, Ohio 44256
 PH (330) 722-9023 • FX (330) 722-9045
 www.medinaoh.org

Boards and Commissions Application for Zoning Approval

Project Address: PROGRESS DRIVE
 Parcel No: ~~020-19A-10-004~~ 629-19A-16-030 Case No: 216-12

Project Description: (describe below and check all that apply) Requesting an appeal on Jonathan Mendel's March 23, 2016 letter and decision in reference to our application for a zoning certificate. Mr. Mendel's letter is inconsistent with a prior decision by the Medina County Court of Common Pleas (Case No. 15CIV0780) and applies factors not within the City of Medina Zoning Code.

Planning Commission

- Site plan approval
- Conditional zoning certificate
- Conditional sign approval
- Code or Map Amendment
- Preliminary plan
- Subdivision
- Other:

Historic Preservation Board

- Certificate of Appropriateness
- Conditional sign approval

Board of Zoning Appeals

- Variance
- Appeal

Please note: applications will not be accepted as complete by the City of Medina until the applicant and property owner fulfill the requirements listed within the submittal requirements. Application fees are accepted in cash or by check payable to the City of Medina.

Affidavit of Applicant and Property Owner

The undersigned do hereby certify that the information to the City of Medina in and with this application is true and accurate and consents to employees and/or agents of the City of Medina entering upon the premises of this application for purposes of inspection pertaining to the application. Property Owner also consents to posting of a sign seven days prior to the scheduled meeting for public notice for variance, rezoning, code amendment, conditional use requests, and requests subject to a public hearing.

Applicant: Fechko Excavating, Inc. Property Owner: Touchstone Properties, LLC.
 Address: 865 West Liberty Street, Ste. 120 Address: 865 West Liberty Street, Suite 120
Medina, OH 44256 Medina, OH 44256
 Email: gpetersen@fechko.com Email: jfechko@fechko.com
 Phone: 330-722-2890 Fax: 330-281-2881 Phone: 330-722-2890 Fax: 330-230-2881

[Signature] 04/04/2016
 Applicant (please sign and print) Greg Petersen, Fechko Excavating, Inc. Date

[Signature] 04/04/16
 Property Owner (please sign and print) Dean Fechko, Touchstone Properties, LLC. Date

RECEIVED
 APR 04 2016
 BY: [Signature]



132 North Elmwood St.
P.O. Box 703
Medina, Ohio 44258-0703
Phone: 330-764-3319
Fax: 330-722-9045
www.medinaoh.org

March 23, 2016

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John Fechko
Touchstone Properties, LLC
865 West Liberty Street Suite 120
Medina, OH 44256

Dear Mr. Fechko,

On March 15, 2016, the City of Medina Community Development Department received an application from you requesting a zoning certificate to permit recycling/crushing operations on the property identified as Parcel No. 029-19A-16-030, City Lot 6774. This was submitted for review as a permitted use within the City of Medina's I-1 zoning district as listed in Section 1141.04 of the City of Medina Planning and Zoning Code.

As required by Section 1107.03 of the City of Medina Planning and Zoning Code, this letter is a formal response to the above submitted request.

The application for zoning certificate submitted to the City of Medina Community Development Department on March 15, 2016 by John Fechko of Touchstone Properties, LLC is denied.

The denial is determined by two factors:

- The proposed recycling/crushing operation as described in your application is considered a 'Heavy Manufacturing' use as defined by Section 1105.097 of the City of Medina Planning and Zoning Code
- A Site Plan must be reviewed and approved by the Planning Commission as required by Section 1109.01 of the City of Medina Planning and Zoning Code

The below definition applies to your proposed recycling/crushing use:

1105.097 MANUFACTURING, HEAVY.

"Heavy manufacturing" means a building or land used for the assembly, fabrication or processing of goods and materials using processes that ordinarily create smoke, noise, fumes, odor, glare or potential safety hazards (e.g. explosive materials processing).

This definition of the use is based on my field visit and consideration of your recycling/crushing use in operation on April 29, 2015 accompanied by Greg Petersen, General Manager of Fechko Excavating, Inc. My experience on April 29, 2015 at your site and visits to other similar recycling/crushing operations maintains and reinforces my professional opinion that a recycling/crushing use is defined as Heavy Manufacturing under Section 1105.097 of the City of Medina Planning and Zoning Code, because it is land used for processing of goods and materials using processes that ordinarily create smoke (which is equivalent to dust) and noise.

Site Plan review is required by Section 1109.01 because it is a conditionally permitted industrial use requiring a conditionally zoning certificate

As a conditionally permitted use within the City of Medina's I-1 zoning district (as listed in Section 1141.04 of the City of Medina Planning and Zoning Code), a conditional zoning certificate and site plan approval must be requested, and reviewed and approved by the City of Medina Planning Commission subject to the requirements of Chapter 1153 (Conditional Zoning Certificates) and Chapter 1109 (Site Plan Review) of the City of Medina Planning and Zoning Code.

In order to request a conditional zoning certificate and site plan review, please complete and provide the forms, data/information and fees outlined in the packet provided with this letter, which includes the Boards and Commissions application form, the Boards and Commission Submittal Requirements (see page 1 *Site Plan Approval or Conditional Use* for the applicable submittal requirements), fee schedule (\$300 for conditional Zoning Certificate and \$200 plus \$25 per acre for Site Plan Review) and the 2016 Meeting Schedule (outlining meeting dates and filing deadlines).

If you have questions, please contact me at jmendel@medinaoh.org or 330-722-9023.

Sincerely,



Jonathan Mendel
Community Development Director

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COMMON PLEAS COURT

16 JAN 15 PM 12:30

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DAVID B. WADSWORTH
MEDINA COUNTY
CLERK OF COURTS

**IN THE COURT OF COMMON PLEAS
MEDINA COUNTY, OHIO**

Fechko Excavating, Inc.

CASE NO. 15CIV0780

Appellant

vs.

JUDGE JOYCE V. KIMBLER

**City of Medina Board of
Zoning Appeals**

**Judgment Entry with Instructions
to the Clerk**

Appellee

This matter came on before the Court upon the Motion of the Appellant, Fechko Excavating, Inc, asking the Court to reverse the decision of the City of Medina Board of Zoning Appeals. The appeal arises out of a determination by the Board of Zoning Appeal that Fechko's use could be classified as Heavy Manufacturing.

On April 29, 2015, the City of Medina, through Jonathan Mendel, Community Development Director, notified Fechko of an administrative decision that the concrete recycling operation occurring at the parcel of land immediately east of Fechko's offices at 865 W. Liberty St., Medina, Ohio is classified as "Heavy Manufacturing" as that is defined in the City of Medina Planning and Zoning Code. Fechko appealed the Planning Director's administrative decision to the Board of Zoning Appeals. The Board held a hearing on the appeal on July 8, 2015.

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Following the hearing the Board voted to deny the appeal. From this decision of the Board, Fechko appealed to the Court of Common Pleas pursuant to R.C. 2506.01.

As stated by the Ninth District Court of Appeals in *Lee v. Lafayette Twp. Bd.*, 193 Ohio App. 3d 795:

Administrative appeals initiated under R.C. 2506.04 require the trial court to "consider the entire record before it and 'determine whether the administrative order is unconstitutional, illegal, arbitrary, capricious, unreasonable, or unsupported by the preponderance of substantial, reliable, and probative evidence.'" *Summit Cty. v. Stoll*, 9th Dist. No. 23465, 2007 Ohio 2887, at ¶9, quoting *Henley v. Youngstown Bd. of Zoning Appeals* (2000), 90 Ohio St.3d 142, 147, 2000 Ohio 493, 735 N.E.2d 433. Based on its review, the trial court may "affirm, reverse, vacate, or modify the order[.]" R.C. 2506.04.

The letter of April 29, 2015 states:

"After witnessing the operation in person, it is my administrative decision that the concrete recycling operation is classified as "Heavy Manufacturing" listed in the conditionally permitted use table in Section 1141.04 of the City of Medina Planning and Zoning Code.

The operation is classified as such because it falls under the definition of "Manufacturing, Heavy" (Section 1105.097) of the City of Medina Planning and Zoning. It meets this definition, because it is land used for the processing of materials using processed that ordinarily create noise. The process of recycling/crushing the concrete into smaller aggregate is a process that ordinarily creates noise."

A review of the transcript of the appeal hearing reveals that while the issue of noise was discussed, it was the issue of dust and its effect on Fechko's neighbor, Fire-Dex, which was the primary thrust of the City's concerns. As stated by Atty. Huber on behalf of the City at page 132, "So we need to place some limits on what's occurring and try to balance this situation because we have two businesses right next to one another, one of whom is really upset because of the silica. And that's why we're here."

So the question becomes:

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- A) Did the letter of April 29, 2015 from Jonathan Mendel give Fechko sufficient notice of the alleged zoning issue; and,
- B) If so, does dust equate to smoke as that term is used in Section 1105.097 of the City of Medina Planning and Zoning?

As stated by the Ninth District Court of Appeals in *Bd. of Trs. v. Albertson*, 2001 Ohio App. LEXIS 4638, 2001-Ohio-1510 (Ohio Ct. App., Lorain County Oct. 17, 2001),

Before a protected liberty or property interest may be infringed, due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *State v. Hochhausler* (1996), 76 Ohio St. 3d 455, 459, 668 N.E.2d 457. The particular set of circumstances dictates the actual procedures required. *Id.*, quoting *Cafeteria & Restaurant Workers Union v. McElroy* (1961), 367 U.S. 886, 895, 6 L. Ed. 2d 1230, 1236, 81 S. Ct. 1743. "At a minimum, the constitutional guarantee of Due Process requires that 'deprivation of life, liberty, [15] or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case.'" *Riffe v. Ohio Real Estate* (1998), 130 Ohio App. 3d 46, 51, 719 N.E.2d 587, quoting *Boddie v. Connecticut* (1971), 401 U.S. 371, 378, 28 L. Ed. 2d 113, 119, 91 S. Ct. 780.

Under the facts of this matter, the letter from the City of Medina specifically references the definition of "Manufacturing, Heavy" as contained in the Medina City Planning and Zoning Code. Section 1105.097 states: Heavy Manufacturing "means a building or land used for the assembly, fabrication or processing of goods and materials using processes that ordinarily create smoke, noise, fumes, odor, glare or potential safety hazards (e.g. explosive materials processing). Glaring absent is the word "dust". Of these possible criteria, the letter of April 29, 2015 only references "noise" as a problem with the Fechko use of the property. It was the testimony of Dan Gladish, at page 36 of the transcript, that the City of Medina began looking at the issues presented with respect to the Fechko operations as a result of a phone call he received on April

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25th of 2015 from Fire-Dex. John Karban of Fire-Dex indicated that Fire-Dex had a concern regarding the dust emanating from the Fechko property.

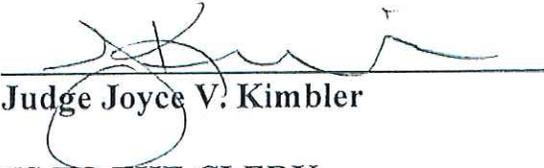
The question which arises is, if Fire-Dex complained about the dust on April 25, 2015, and in response the City of Medina first met with the Fire-Dex people (transcript pages 37-40) and came to the conclusion that dust was wafting from the Fechko property onto the Fire-Dex property as a result of either the Fechko crushing operations or the Fechko construction drive, why didn't Jonathan Mendel list the dust problem as the basis of the classification of the property use as "Manufacturing, Heavy"? The Appeal filed by Fechko indicated that they were appealing the issue of noise alone. The memorandum submitted to the City of Medina Board of Zoning Appeals by Jonathan Mendel for the June 11, 2015 meeting only references noise and not dust as the basis for the classification. The answer appears to be that the definition of "Manufacturing, Heavy" references smoke and not dust. The City of Medina attempts to substitute the word smoke for dust and argue that "dust is a suspension of very small particular matter in the air and is clearly subsumed within the definition of smoke."

Based upon the language used in both the letter of April 20, 2015 as well as the memorandum filed by the City for the June 11, 2015 meeting, there was no reason for Fechko to have anticipated that dust allegedly drifting from their property onto the Fire-Dex property was the basis for the classification of "Manufacturing, Heavy" and a potential basis for a zoning classification.

Applying this analysis to the facts of the case at bar, it is the determination of this court that the letter of April 29, 2015 did not give Fechko sufficient notice to be consistent with due

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process and the opportunity to be heard. Thus, the resulting decision of to the City of Medina Board of Zoning Appeals is unconstitutional and must be reversed and vacated.



Judge Joyce V. Kimbler

INSTRUCTIONS TO THE CLERK

Pursuant to Civ.R. 58, the clerk is directed to serve upon the following parties, notice of this judgment and its date of entry on the docket:

Steven B. Beranek
865 W. Liberty St.
Suite 120
Medina, OH 44256

Gregory A. Huber
132 North Elmwood Avenue
PO BOX 703
Medina, OH 44258

Notice was sent by U.S. mail on 1-20-16.



Deputy Clerk of Court

Applicant's
June 1, 2016 appeal
request



VIA HAND DELIVERY AND E-MAIL

June 1, 2016

Mr. Jonathan Mendel
Community Development Director
The City of Medina, Ohio
132 North Elmwood Ave.
Medina, Ohio 44258-0703

RE: Rejection of May 24, 2016 Supplemental Land Use Determination / Demand for
Withdrawal of May 24, 2016 Supplemental Land Use Determination / Notice of Appeal of May
24, 2016 Supplemental Land Use Determination

Dear Mr. Mendel:

Touchstone Properties, LLC and Fechko Excavating, Inc. (collectively "Fechko") reject your May 24, 2016 Supplemental Land Use Determination for Recycling/Crushing Operation. Fechko's positions stand as previously stated.

The May 24, 2016 letter is improper under the Zoning Code and Ohio law and must be withdrawn. If the letter is not withdrawn then Fechko appeals the letter to the BZA. This will be Fechko's third BZA appeal for parcel number 029-19A-16-030.

The City's April 29, 2015 letter administratively determined Fechko's use was classified as a conditionally permitted "Heavy Industrial" use, based upon the criteria listed in that letter. Fechko appealed the April 29, 2015 letter to the BZA. On July 8, 2015, the BZA held a hearing and denied Fechko's BZA appeal. Fechko then appealed the BZA determination to the Medina County Court of Common Pleas. The Court noted the "appeal arises out of a determination by the Board of Zoning Appeal (sic) that Fechko's use could be classified as Heavy Manufacturing." The Court concluded "the resulting decision of to (sic) the Medina Board of Zoning Appeals is unconstitutional and must be reversed and vacated."

Based on the Court of Common Pleas' decision, on March 15, 2016 Touchstone applied for a zoning certificate. On March 23, 2016 you sent a letter denying Touchstone's permit request, again finding the use was a conditionally permitted Heavy Industrial use, based upon the criteria listed in the March 23, 2016 letter. On April 4, 2016, Touchstone/Fechko appealed your March 23, 2016 letter to the BZA. Fechko awaits a date for this second BZA hearing.

Your third May 24, 2016 letter is a nullity. It is neither in response to any permit application by Fechko nor any recent site activity. The letter acknowledges your last site visit was April 29, 2015, so it is dealing with the same facts as the prior two letters. The letter admits it is not based on new facts, but instead is "supplemental notice, in addition to the March 23, 2016, letter." Your letter is an impermissible third attempt to justify rejection of a zoning permit for Fechko, and it must be withdrawn.



The Zoning Code is clear – an appeal may be taken by any person aggrieved by a decision of any administrative or enforcement official (1107.08.B.1). That is what occurred twice before. Fechko’s second appeal is now pending with the BZA. Nothing in your Zoning Code permits any administrative or enforcement official to supplement or revise their prior determination. Once Fechko filed its notice of appeal, the administrative or enforcement official is divested of jurisdiction to reconsider, modify, or supplement your prior decision.

Your letter acknowledges it is outside the Zoning Code in its offer to give Fechko “additional time to respond and/or appeal from this notice.” The letter implies that Fechko has more than the 14 days permitted in the Zoning Code. The letter also implies that the City can continue to supplement its prior decision, over and over, depriving Fechko of the ability to have a focused appeal to the BZA on a focused issue. This violates Fechko’s rights.

Once scheduled, Fechko demands the BZA hearing focus on the criteria listed in the March 23, 2016 letter. That is the letter Fechko appealed from. Please confirm for me the date of this hearing.

Please also confirm the May 24, 2016 letter is withdrawn. If not, then attached is Fechko’s BZA appeal of that letter. Fechko is willing to withdraw the attached BZA appeal if the City will withdraw the May 24, 2016 letter. Otherwise Fechko will ask the BZA to confirm that the City is not permitted to supplement a previously appealed determination pending with the BZA.

Fechko is disappointed the City is forcing three BZA appeals over this issue. Fechko is being treated unreasonably and being damaged by the City’s efforts to prevent Fechko from using the land in a manner consistent with the Zoning Code other nearby crushing operations. Fechko purchased the property after confirming with the City that Fechko’s crushing operation was permitted. Instead, Fechko faced needless opposition and delay by the City as the City favors neighboring uses (including uses inconsistent with current zoning).

Fechko/Touchstone reserve all of their rights, claims, and defenses under the Zoning Code and at law.

Sincerely,

A handwritten signature in black ink, appearing to read "John Fechko". The signature is written in a cursive, flowing style.

John Fechko
Touchstone Properties, LLC
Fechko Excavating, Inc.



CITY OF MEDINA
Community Development Department
 132 North Elmwood Street
 Medina, Ohio 44256
 PH (330) 722-9023 • FX (330) 722-9045
 www.medinaoh.org

Boards and Commissions Application for Zoning Approval

Project Address: Progress Drive, Medina, OH

Parcel No: 029-19A-16-030, City Lot 6774 Case No: _____

Project Description: (describe below and check all that apply) Appealing Mr. Mendel's May 24, 2016 letter.

The zoning administrator is not permitted to supplement its prior March 23, 2016 letter because Fechko already appealed that letter to the BZA. (Mendel May 24, 2016 Letter attached)

Planning Commission

- Site plan approval Conditional zoning certificate Conditional sign approval Code or Map Amendment
- Preliminary plan Subdivision Other:

Historic Preservation Board

- Certificate of Appropriateness Conditional sign approval

Board of Zoning Appeals

- Variance Appeal

Please note: applications will not be accepted as complete by the City of Medina until the applicant and property owner fulfill the requirements listed within the submittal requirements. Application fees are accepted in cash or by check payable to the City of Medina.

Affidavit of Applicant and Property Owner

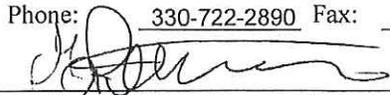
The undersigned do hereby certify that the information to the City of Medina in and with this application is true and accurate and consents to employees and/or agents of the City of Medina entering upon the premises of this application for purposes of inspection pertaining to the application. Property Owner also consents to posting of a sign seven days prior to the scheduled meeting for public notice for variance, rezoning, code amendment, conditional use requests, and requests subject to a public hearing.

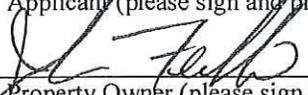
Applicant: Fechko Excavating, Inc. Property Owner: Touchstone Properties, LLC.

Address: 865 West Liberty Street, Suite 120 Address: 865 West Liberty Street, Suite 120
Medina, OH 44256 Medina, OH 44256

Email: gpetersen@fechko.com Email: jfechko@fechko.com

Phone: 330-722-2890 Fax: 330-230-2881 Phone: 330-722-2890 Fax: 330-230-2881

 _____ Greg Petersen 06/01/2016
 Applicant (please sign and print) Date

 _____ John Fechko 06/01/2016
 Property Owner (please sign and print) Date



132 North Elmwood Ave.
P.O. Box 703
Medina, Ohio 44258-0703
Phone: 330-725-8861
Fax: 330-722-9045
www.medinaoh.org

VIA FEDERAL EXPRESS

May 24, 2016

John Fechko
Touchstone Properties, LLC
865 West Liberty Street Suite 120
Medina, OH 44256

RE: Supplemental land use determination for a recycling/crushing operation

Dear Mr. Fechko,

On March 15, 2016, the City of Medina Community Development Department received an application from you requesting a zoning certificate to permit recycling/crushing operations on the property identified as Parcel No. 029-19A-16-030, City Lot 6774. This was submitted for review as a permitted use within the City of Medina's I-1 zoning district as listed in Section 1141.04 of the City of Medina Planning and Zoning Code.

On March 23, 2016, you were provided notice that your request for a zoning certificate was denied because the recycling/crushing operation was determined to be "Manufacturing, Heavy" as defined below:

1105.097 MANUFACTURING, HEAVY.

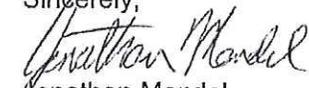
"Heavy manufacturing" means a building or land used for the assembly, fabrication or processing of goods and materials using processes that ordinarily create smoke, noise, fumes, odor, glare or potential safety hazards (e.g. explosive materials processing).

This was confirmed during my April 29, 2015, site visit with Greg Petersen, Fechko General Manager, and by subsequent viewings of the site. It is my determination that the concrete-crushing operation essentially involves the assembly, fabrication, or processing of goods and materials using processes that ordinarily create smoke, noise, fumes, odor, glare or potential safety hazards, as well as dust. This letter provides supplemental notice, in addition to the March 23, 2016, letter, that the recycling/crushing use is "Manufacturing, Heavy" pursuant to Section 1105.097. If you are in need of additional time to respond to this notice, please take additional time to respond and/or appeal from this notice.

As you are aware, a "Heavy Manufacturing" use requires approval by the City Planning Commission as a conditionally permitted use.

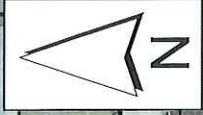
If you have questions, please contact me at jmendel@medinaoh.org or 330-722-9023.

Sincerely,


Jonathan Mendel,
Community Development Director

Preserving the Past. Forging the Future.

Aerial photograph of
the property



1 inch = 300 feet

2014 aerial

Subject Site

Z16-12
Fechko - Appeal of
Administrative Decision
August 10, 2016