

IN THE CHANCERY COURT FOR LOUDON COUNTY, TENNESSEE

copy

**TOWN OF GREENBACK,
TENNESSEE AND LOUDON
COUNTY REGIONAL PLANNING
COMMISSION,**

Plaintiffs,

vs.

NO. 13237

**M&M STONE FARMS, LLC,
a Tennessee Limited Liability
Company, and TRI-COUNTY CRUSHED
STONE, LLC, a Tennessee Limited Liability
Company,**

FILED 22 DAY OF April 2024
Lisa Scott AT 4:44 P.M.
LOUDON CO. CLERK & MASTER

Defendant.

**COMPLAINT FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

Come now the Plaintiffs, Town of Greenback Tennessee and the Loudon County Regional Planning Commission for complaint against Defendants, M&M Stone Farms, LLC and Tri-County Crushed Stone, LLC state:

1. Plaintiff, the Town of Greenback, Tennessee (the "Town"), is a municipality located in Loudon County, Tennessee. The Town has adopted zoning in its corporate limits.
2. The Loudon County Regional Planning Commission ("Planning Commission") is a regional planning commission located in Loudon County, Tennessee. The Loudon County Planning Commission serves as the planning commission for Greenback and has since January 1, 2006.
3. Defendant, M&M Stone Farms, LLC ("M&M") is a Tennessee limited liability company with a principal address of 102 Chilhowee Ave., Greenback, Tennessee 37742. It may

be served with process through its Registered Agent, Michael S. Kelley, Esq., 550 W. Main Street, Suite 400, Knoxville, Tennessee 37902.

4. Defendant Tri-County Crushed Stone, LLC (“Tri-County”) is a Tennessee limited liability company with a principal address of 4921 U.S. Highway 411, Maryville TN 37801. It may be served with process through its Registered Agent, Chad Boruff, 4921 U.S. Highway 411, Maryville TN 37801.

5. The Defendant, M&M, is the owner of property located at 1373 Hutton Road in Greenback, Tennessee (“Subject Property”).

6. The Subject Property is located in the Town and is subject to the ordinances of the Town.

7. The Town, on or about January 4, 2024, via Ordinance No. 23-5 zoned the Subject Property M1, Light Industrial District. *See Exhibit A.*

8. Mining and quarrying of natural mineral resources is not a permitted use in this district.

9. On March 25, 2024, James Jenkins, the Building Official for the Town, through the Loudon County Codes Enforcement Office wrote a letter to M&M which is attached hereto as **Exhibit B** (Letter”). This Letter advised that the Office had received complaints that there is a non-permitted activity occurring on Subject Property. As stated in the Letter, there was equipment on site removing soil in preparation for a rock quarry.

10. After site inspection and reviewing the Tennessee Department of Environment and Conservation (“TDEC”) records, it appears that this property is being developed in preparation for a limestone quarry. The TDEC permit is in the name of Tri-County. As such, on information and

belief, it is averred that Tri-County is planning to attempt to operate a quarry on the Subject Property as a lessee of the Subject Property from M&M or under some similar arrangement.

11. As set forth in the Letter, the Subject Property is not zoned for this use. This Letter advised the Defendant M&M that the property was in violation of Section 4-408 of the Greenback Zoning Ordinance.

12. To bring the Subject Property into compliance, M&M was requested to immediately cease development activities on the Subject Property and to stabilize the exposed soil.

13. Soil continues to be removed from the Subject Property and otherwise the Subject Property is being seemingly prepared for use as a rock quarry.

14. The Defendants have stated an intent to operate a rock quarry on the Subject Property.

15. This action is a declaratory judgment action pursuant to Tenn. Code Ann. § 29-14-101, et seq.

16. The Town and the Planning Commission hereby ask this Court to declare the rights and responsibilities of the parties and to enter permanent injunctive relief to prevent the Defendants or anyone else in concert or participation with them from operating in violation of the zoning ordinance on the Subject Property including, but not limited to, operating a rock quarry thereon.

WHEREFORE, the Plaintiffs demand as follows:


1. That proper process issue and be served upon the Defendants requiring them to answer within the time set forth by law.
2. That this Court declare the rights and responsibilities of the parties as related to the zoning of the Subject Property.

3. That this Court enter a permanent injunction preventing the Defendants or anyone else in concert and participation with them from conducting rock quarry activities or anything else on the Subject Property that is not permitted in the applicable zoning laws.
4. That the cost of this cause be charged to the Defendants.
5. For other further and general relief to which the Plaintiffs may show themselves entitled at a hearing of this cause.

THIS IS THE FIRST APPLICATION FOR EXTRAORDINARY RELIEF IN THIS CAUSE

Respectfully submitted this the 22 day of April, 2024,

KIZER & BLACK, ATTORNEYS, PLLC:

BY: 
MELANIE E. DAVIS BPR #017947
217 E. Broadway Ave.
Maryville, Tennessee 37804
Telephone: (865) 980-1625
Email: mdavis@kizerblack.com
Attorney for Plaintiff Town of Greenback

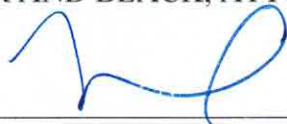
KRAMER RAYSON, LLP:

BY: 
ROBERT L. BOWMAN BPR # 017266
NATHANIEL D. MOORE BPR # 031520
800 South Gay Street, Ste. 2500
Knoxville, Tennessee 37902
Telephone: (865) 525-5134
Email: rlbowman@kramer-rayson.com
Email: nmoore@kramer-rayson.com
*Attorneys for Plaintiff Loudon County
Regional Planning Commission*

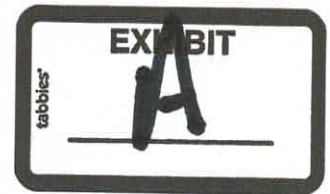
COST BOND

We, the undersigned, hereby bind ourselves for the costs of the cause in accordance with
Tenn. Code Ann. §20-12-120.

KIZER AND BLACK, ATTORNEYS, PLLC:

BY: 

Melanie E. Davis



ORDINANCE NO. 23-5

AN ORDINANCE TO RATIFY, CONFIRM AND ADOPT THE ZONING MAP OF THE TOWN OF GREENBACK, TENNESSEE AND TO RATIFY, CONFIRM AND ADOPT THE ZONING OF PROPERTY PREVIOUSLY ANNEXED INTO THE TOWN AS SHOWN ON THE ATTACHED EXHIBIT A

WHEREAS, the Mayor and Board of Aldermen for the Town of Greenback desire to ratify, adopt and confirm the zoning map of the Town of Greenback, Tennessee and ratify, adopt, and confirm zoning of property previously annexed into the Town; and

WHEREAS, the Loudon County Regional Planning Commission (to whom planning commission duties and responsibilities for the Town of Greenback have been assigned) has reviewed this ordinance and recommended it be approved by the Mayor and Board of Aldermen for the Town of Greenback; and

WHEREAS, zoning, ratification and confirmation of zoning and the zoning map advances the health, safety, and welfare of the Town of Greenback; and

WHEREAS, these parcels at issue were previously annexed into the Town of Greenback with their zoning shown on maps and charts of the Town of Greenback and/or of Loudon County as well as the applicable Plans of Services; and

WHEREAS, the intent of this ordinance is to ratify those prior zoning maps and prior zoning designations and to confirm and adopt them by the Town of Greenback.

WHEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN FOR THE TOWN OF GREENBACK as follows:

1. That property with the tax parcel numbers and further identified on Exhibit A attached hereto and incorporated herein by reference and as identified on the relevant Loudon County tax maps are zoned and confirmed as zoned as shown on Exhibit A hereto. The zoning of these parcels, as well as the applicable Plans of Services, are hereby also ratified, adopted, and confirmed on the zoning maps for the Town of Greenback.

2. That the provision of this ordinance shall be effective upon its final adoption, the public record requiring it.

ADOPTED this the 9th day of January, 2024.

Dewayne Birchfield
MAYOR

ATTEST:

Arthur L. Br...
City Recorder

APPROVED AS TO FORM:

[Signature]
City Attorney

Public Hearing: 12 December 2023

Passed 1st reading this 12 day of December, 2023 [Signature]
City Recorder

Passed 2nd reading this 9 day of January, 2024 [Signature]
City Recorder

EXHIBIT A

That property comprising parcel numbers 212.00, 213.00, 214.00, 215.00 on Loudon County Tax Map **070**, 025.00, 026.00, 027.00, 028.00, 029.00, 030.00, 031.00, 031.01, 032.00, 033.00, 034.00, 035.00, 036.00, 037.00, 038.00, 040.00, 041.00 on Loudon County Tax Map **071**, 022.00, 024.00, 025.00, 026.00, 029.00, 030.00, 031.00, 032.00, 036.00, 037.00, 038.00, 039.00, 041.00, 043.00, 044.00, 045.00, 045.01, 087.00 on Loudon County Tax Map **079**, 001.00, 002.00, 003.00, 007.00, 008.00, 009.00, 010.00, 011.00, 011.01, 012.00, 014.00, 014.02, 014.03, 016.00, 019.00, 060.00 on Loudon County Tax Map **080**, 004.00, 005.00, 006.00, 009.00, 011.00, 011.01, 011.02, 011.03, 012.00, 013.00, 014.00, 015.00, 016.00, 017.00, 018.00, 019.00, 019.01, 030.00, 031.00, 032.00, 033.00 on Loudon County Tax Map **084** annexed into the Town of Greenback zoned as A-1 Agricultural-Forestry District.

That property comprising parcel numbers 039.00, 042.00, 043.00 on Loudon County Tax Map **071**, 040.00, 042.00, 045.00, 046.00, 058.01, 084.00, 086.00 on Loudon County Tax Map **079**, 001.00, 004.00, 005.00, 060.00 on Loudon County Tax Map **080**, 015.00 on Loudon County Tax Map **083** annexed into the Town of Greenback zoned as A-1 Agricultural-Forestry District, F-1 Floodway District.

That property comprising parcel numbers 125.00, 126.00, 127.00, 127.01, 128.00, 129.00, 130.00, 131.00, 132.00 on Loudon County Tax Map **079**, 018.01, 018.03, 018.05, 018.06, 018.07, 018.08, 029.00, 030.00, 031.00, 032.00, 033.00, 034.00, 035.00, 036.00, 037.00, 038.00, 045.00, 046.00, 047.00, 048.00, 049.00, 050.00, 051.00, 051.01, 051.02, 052.00, 052.01, 055.00, 056.00, 057.00, 058.00, 059.00, 062.00, 063.00, 064.00, 065.00, 066.00, 067.00, 068.00, 069.00, 069.01, 070.00, 071.00, 072.00, 073.00, 074.00, 075.00, 076.00, 078.00, 080.00, 081.00, 082.00, 086.00, 088.00, 089.00, 090.00, 091.00, 092.00, 093.00, 094.00, 095.00, 096.00, 097.00, 098.00, 099.00, 100.00, 101.00, 102.00, 103.00, 104.00 on Loudon County Tax Map **080**, 003.00, 004.00, 005.00, 006.00, 007.00, 008.00, 009.00, 010.00, 014.00, 016.00, 016.01, 016.02, 016.03 on Loudon County Tax Map **080G A**, 008.00, 009.00, 010.00, 011.00, 012.00, 013.00, 014.00, 015.00, 016.00, 017.00, 018.00 and 019.00 on Loudon County Tax Map **080H B**, 001.00, 002.00, 003.00, 006.00, 007.00, 010.00, 011.00 Loudon County Tax Map **080H A**, 001.00, 002.00, 003.00, 004.00, 005.00, 006.00, 007.00 Loudon County Tax Map **080H B**, 001.00, 002.00, 003.00, 004.00, 005.00, 006.00, 007.00, 008.00,

009.00, 010.00 011.00, 012.00, 013.00, 015.00, 015.01, 016.00 on Loudon County Tax Map **080H C** annexed into the Town of Greenback zoned as C-1 Central Business District.

That property comprising parcel number 015.00 on Loudon County Tax Map **080** annexed into the Town of Greenback zoned as M-1 Light Industrial District, F-1 Floodway District.

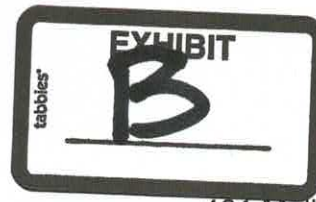
That property comprising parcel number 018.00, 018.02, 018.04, 021.00, on Loudon County Tax Map **080** annexed into the Town of Greenback zoned as A-1 Agricultural-Forestry District, C-1 Central Business District.

That property comprising parcel number 020.00 on Loudon County Tax Map **080** annexed into the Town of Greenback zoned as A-1 Agricultural-Forestry District, SP. EX.

That property comprising parcel number 061.00 on Loudon County Tax Map **080** annexed into the Town of Greenback zoned as C-1 Central Business District, F-1 Floodway District.



LOUDON COUNTY CODES ENFORCEMENT



101 Mulberry Street, Suite 101
Loudon, Tennessee 37774
Phone: 865-458-4470
Fax: 865-458-3598

www.planningandcodes.loudoncounty-tn.gov

March 25, 2024

M&M Stone Farms LLC
1373 Hutton Road
Greenback, TN 37742

To whom it may concern,

Our office has received complaints that there is non-permitted activity occurring on the above-referenced property. The complaint states that there is equipment onsite removing soil in preparation for a rock quarry. After a site inspection and reviewing Tennessee Department of Environment and Conservation records, it appears this property is being developed in preparation for a limestone quarry. Our records indicate this property is zoned by the Town of Greenback as M-1, Light Industrial District and mining or quarrying of natural mineral resources is not a permitted use.

I am sending you this letter to notify you that this property is in violation of Section 4-408 of the Greenback Zoning Ordinance. To bring the property into compliance, you will need to immediately cease development activities on the property and stabilize the exposed soil. If you have any questions feel free to contact me at 865-458-4095. Your cooperation in resolving this matter is greatly appreciated.

Thank you,

James Jenkins
Building Official
Town of Greenback

cc.
Michael S. Kelly, Registered Agent
550 W. Main Street, Suite 400
Knoxville, TN 37902

Chancery Court for Loudon County, Tennessee	STATE OF TENNESSEE CIVIL SUMMONS page 1 of 2	Case Number 13237
Town of Greenback and Loudon County Regional Planning Committee	v.	M&M Stone Farms, LLC and Tri-County Crushed Stone, LLC

COPY

Served On: c/o Chad Boruff, 4921 US Highway 411, Maryville, TN 37801
Tri-County Crushed Stone, LLC

You are hereby summoned to defend a civil action filed against you in the Chancery Court, Loudon County, Tennessee. Your defense must be made within thirty (30) days from the date this summons is served upon you. You are directed to file your defense with the clerk of the court and send a copy to the plaintiff's attorney at the address listed below. If you fail to defend this action by the below date, judgment by default may be rendered against you for the relief sought in the complaint.

Issued: April 22, 2024 Connie Black DC
Clerk / Deputy Clerk

Attorney for Plaintiff: Melanie E. Davis, Esq.
217 E. Broadway Ave., Maryville, TN 37804

NOTICE OF PERSONAL PROPERTY EXEMPTION

TO THE DEFENDANT(S): Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption as well as a homestead exemption from execution or seizure to satisfy a judgment. The amount of the homestead exemption depends upon your age and the other factors which are listed in TCA § 26-2-301. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for your self and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer. Please state file number on list.

Mail list to Lisa Scott, Chancery Clerk, Loudon County FILED 22 DAY OF April 2024
P O Box 509 Loudon TN 37714 AT 4:49 M.
Lisa Scott
LOUDON CO. CLERK & MASTER
CB

CERTIFICATION (IF APPLICABLE)

I, _____ Clerk of _____ County do certify this to be a true and correct copy of the original summons issued in this case.

Date: _____
Clerk / Deputy Clerk

OFFICER'S RETURN: Please execute this summons and make your return within ninety (90) days of issuance as provided by law.

I certify that I have served this summons together with the complaint as follows: _____

Date: _____ By: _____
Please Print: Officer, Title

Agency Address _____ Signature _____

RETURN ON SERVICE OF SUMMONS BY MAIL: I hereby certify and return that on _____, I sent postage prepaid, by registered return receipt mail or certified return receipt mail, a certified copy of the summons and a copy of the complaint in the above styled case, to the defendant _____. On _____ I received the return receipt, which had been signed by _____ on _____. The return receipt is attached to this original summons to be filed by the Court Clerk.

Date: _____
 ADA: If you need assistance or accommodations because of a disability, please call _____, ADA Coordinator, at () _____.

Chancery Court for Loudon County, Tennessee	STATE OF TENNESSEE CIVIL SUMMONS page 1 of 2	Case Number 13237
Town of Greenback and Loudon County Regional Planning Committee	v.	M&M Stone Farms, LLC and Tri-County Crushed Stone, LLC

COPY

Served On: M&M Stone Farms, LLC c/o Michael s. Kelly, Esq., 550 W. Main Street, Ste. 400, Knoxville, TN 37902

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Issued: April 22, 2024 Cornie Black DC
Clerk / Deputy Clerk

Attorney for Plaintiff: Melanie E. Davis, Esq.
217 E. Broadway Ave., Maryville, TN 37804

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Mail list to Lisa Scott, Chancery Clerk, Loudon County FILED 22 DAY OF April 2024
PO Box 509 Loudon TN 37774 Lisa Scott AT 4:14 P.M.

CERTIFICATION (IF APPLICABLE)

LOUDON CO. CLERK & MASTER 08

I, _____ Clerk of _____ County do certify this to be a true and correct copy of the original summons issued in this case.

Date: _____
Clerk / Deputy Clerk

OFFICER'S RETURN: Please execute this summons and make your return within ninety (90) days of issuance as provided by law.

I certify that I have served this summons together with the complaint as follows: _____

Date: _____ By: _____
Please Print: Officer, Title

Agency Address _____ Signature _____

RETURN ON SERVICE OF SUMMONS BY MAIL: I hereby certify and return that on _____, I sent postage prepaid, by registered return receipt mail or certified return receipt mail, a certified copy of the summons and a copy of the complaint in the above styled case, to the defendant _____. On _____ I received the return receipt, which had been signed by _____ on _____. The return receipt is attached to this original summons to be filed by the Court Clerk.

Date: _____
Notary Public / Deputy Clerk (Comm. Expires _____)

ADA: If you need assistance or accommodations because of a disability, please call _____, ADA Coordinator, at () _____.