STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

September 10, 2026

Opinion No. 26-08

County Regulation of Excavation Activities

Question 1

Is mining or quarrying an agricultural use of land? If so, is there a limit on the amount of production or size of a mining or quarrying operation above which such activity is no longer an agricultural use of land?

Opinion 1

Generally, no; neither mining nor quarrying are agricultural uses of land.

Question 2

Is there a limit on the size of an excavation to create a farm pond above which the excavation is not an agricultural use of land? If so, do county zoning requirements apply to excavation sites that exceed the limit?

Opinion 2

There is no size limit governing whether an excavation may be considered agricultural in character, but whether a "farm pond" excavation constitutes an agricultural use of land ultimately would depend on the facts of a given situation. Under certain fact patterns, an excavation project's scope could point to a non-agricultural use. If a court did consider a given "farm pond" excavation to be non-agricultural, any county zoning requirements would typically apply. Of note, though, the enforcement of any zoning restrictions could depend on the availability of grandfathering protection to the land user under Tenn. Code Ann. § 13-7-208(b).

Question 3

Can a farm pond excavation still be considered an agricultural use of land if minerals or other materials extracted during the excavation are sold? If not, do county zoning requirements apply to an excavation site from which the minerals or materials are extracted?

Opinion 3

As stated in response to Question 2, whether a "farm pond" excavation constitutes an agricultural use of land ultimately would depend on the facts of a given situation. The sale of extracted minerals could trigger judicial skepticism that an excavation constituted an agricultural use of land under certain circumstances, but we do not believe that an excavation is non-agricultural simply because minerals removed in the excavation are sold. If a court did consider a given excavation to be non-agricultural, we note again that any county zoning requirements would typically apply but that zoning enforcement could depend on the availability of any grandfathering protection under Tenn. Code Ann. § 13-7-208(b).

ANALYSIS

Governments often find it to be in the public's interest to regulate the use of land, and land-excavation activities are not immune to this reality. In Tennessee, for instance, both the State and local governments have exercised regulatory power in relation to excavation activities. *See, e.g.*, Tenn. Code Ann. § 59-8-205 (governing when a permit is needed from the Commissioner of Environment and Conservation to engage in surface mining); *Ready Mix, USA, LLC v. Jefferson Cnty.*, 380 S.W.3d 52, 56–57 (Tenn. 2012) (discussing both municipal and county zoning ordinances that had prohibited surface mining and quarrying in certain areas).

Notably, though, Tennessee's local governments lack the inherent power to control the use of private property within their boundaries. *Shore v. Maple Lane Farms, LLC*, 411 S.W.3d 405, 425 (Tenn. 2013). That power belongs to the State, and any authority that local governments exercise over land use must result from delegation by the General Assembly. *Id.* at 426. Moreover, as this Office has explained, "[t]he General Assembly has the prerogative to decide when and how that authority will be exercised, subject only to the limitations in the state and federal constitutions." Tenn. Att'y Gen. Op. 08-79 (Apr. 2, 2008) (citing *Motlow v. State*, 125 Tenn. 547, 589–90, 145 S.W. 177, 188 (1911)). Accordingly, when local governments act under delegated land use authority, they "cannot wield their land use control powers in a way that conflicts with state law." *Shore*, 411 S.W.3d at 426.

This principle of course extends to a county's exercise of delegated zoning authority, and by statute, the General Assembly has empowered any county to enact zoning restrictions governing property "in the portions of such county which lie outside of municipal corporations." Tenn. Code Ann. § 13-7-101. Although this zoning power is "broad," *Fallin v. Knox Cnty. Bd. of Comm'rs*, 656 S.W.2d 338, 342 (Tenn. 1983), it is not without limitation. As relevant to the request, we note that counties are not authorized to regulate "agricultural uses." Tenn. Code Ann. § 13-7-114(a). And relatedly, counties generally are not authorized to regulate buildings or other structures on lands devoted to agricultural uses provided that the building or structure is "incidental" to the agricultural enterprise. *Id.*[1]

[1] This Office has noted that the Code reaffirms these limitations on county power in Title 5. Tenn. Att'y Gen. Op. 18-30 (July 6, 2018). And in summarizing the subject generally, we have stated that "Tenn. Code Ann. § 13-7-114(a), § 5-1-118(b), and § 5-1-122 prevent counties from regulating buildings and other structures devoted to agricultural uses or purposes and from regulating normal agricultural activities and the agricultural uses of land." *Id.*; *see also* Tenn.

Whether a landowner's use of land is "agricultural" can thus loom as an important issue when there is a dispute over applying a given county zoning regulation to that use. And here, the request poses a series of questions seeking guidance in relation to this subject. We address these questions below.

1. Question 1 asks whether either "mining" or "quarrying" constitutes an agricultural use of land. For purposes of answering this question, we assume that ordinary conceptions of commercial mining and commercial quarrying are at issue. That is, we assume that both "mining" and "quarrying" refer to commercial excavation activity that is singularly devoted to the extraction of solid minerals or other substances from earth deposits.[2]

When applying these conceptual parameters to the question presented, we believe that the required answer is no. As this Office has noted before, the meaning of "agricultural" as used in Tenn. Code Ann. § 13-7-114(a) is informed by the definition of "agriculture" contained in Tenn. Code Ann. §§ 1-3-105(a)(2)(A) and 43-1-113(b)(1). *See* Tenn. Att'y Gen. Op. 18-30 (July 6, 2018); Tenn. Att'y Gen. Op. 17-35 (July 26, 2017). And although "agriculture" contains several meanings under that definition, we do not believe that any of these meanings can fairly support the notion that commercial mining or commercial quarrying constitutes an agricultural use of land as ordinarily conceived.

Start with the initial meanings given under the definition for agriculture: Agriculture means "[t]he land, buildings and machinery used in the commercial production of farm products and nursery stock," as well as "[t]he activity carried on in connection with the commercial production of farm products and nursery stock." Tenn. Code Ann. §§ 1-3-105(a)(2)(A)(i)-(ii), 43-1-113(b)(1)(A)-(B). These meanings do not relate to the industries of commercial mining or commercial quarrying operators because the commercial purposes implicated under agriculture are of a different ilk. Indeed, whereas these initial meanings for agriculture refer to the production of "farm products" and "nursery stock," commercial mining and commercial quarrying activities are directed at the extraction of solid minerals from natural deposits in the earth. Under the definitional limits of agriculture, then, an overlap in commercial purposes is absent. *See* Tenn. Code Ann. § 1-3-105(a)(2)(B)-(C) (defining "farm products" in part as "plants and animals that produce food, feed, fiber or fur" and defining "nursery stock" in part as "trees, shrubs, or other plants" grown for sale on a commercial basis); Tenn. Code Ann. § 43-1-113(b)(2)-(3) (same).

Att'y Gen. Op. 08-145 (Sept. 10, 2008) (noting that the statutory schemes granting counties broad zoning authority and general regulatory power "also expressly prohibit the county from restricting agricultural pursuits").

[2] Such an understanding of "mining" and "quarrying" as commercial activity devoted to the extraction of solid minerals or other substances from earth deposits is variously evidenced in, or otherwise suggested by, both case law and statutes. *See, e.g.*, *Jersey Miniere Zinc Co. v. Jackson*, 774 S.W.2d 928, 929 (Tenn. 1989) (discussing mining operations where ore was extracted and quarrying operations where stone was removed); Tenn. Code Ann. § 13-7-101 (noting that "quarrying" shall be defined for county zoning purposes as "the extraction, removal and mechanized processing" of "stone, gravel, phosphate rock, metallic ore, limestone, marble, chert, sand, dimension stone and any other solid mineral or substance of commercial value, except coal and deep metal mining, including, but not limited to zinc, found in natural deposits in the earth, for barter or sale"); Tenn. Code Ann. § 59-8-202(18) (defining "surface mining" in part as "all or any part of the process followed in the production of minerals from a natural mineral deposit . . . in which the strata or overburden is removed or displaced in order to recover the mineral").

Nor is there any conceptual tie-in through the remaining meanings of agriculture outlined in the Code definition, where the General Assembly has defined agriculture to encompass certain "recreational," "educational," and "entertainment" activities. *See* Tenn. Code Ann. §§ 1-3-105(a)(2)(A)(iii)-(iv), 43-1-113(b)(1)(C)-(D). These meanings simply do not map onto the activities at the heart of commercial mining and commercial quarrying excavations.[3]

Although the Code's meanings for agriculture thus do not comport with ordinary conceptions of commercial mining and commercial quarrying, this does not mean that every activity involving mineral removal must be considered non-agricultural land use. Ultimately, whether an individual's use of land is agricultural would depend on the facts of a given situation. The creation of a "farm pond"—which is at issue in Questions 2 and 3—exemplifies the point.

2-3. Before turning to the specific issues raised concerning the creation of a "farm pond," we believe it is important to emphasize at the start that the geographical situs of an activity on a farm does not necessarily mean that the activity is agricultural. *See Shore*, 411 S.W.3d at 430 (holding that certain activities on a farm were not an agricultural use given the definition of "agriculture" then in the Code). Again, whether a given land use is agricultural would depend on the facts of a given situation, and we believe that this principle has notable relevance in the context of "farm pond" excavations.[4]

On the one hand, the establishment of a "farm pond" *could* constitute an agricultural use of land. Alternatively, however, the creation of a "farm pond" could be connected to non-agricultural activity. The general divergence discussed earlier between agriculture and commercial quarrying helps to illustrate the point. Imagine a situation where one landowner excavates land to create a pond for watering commercial livestock and crops. And by contrast, suppose another landowner excavates land solely in connection with a commercial quarrying operation. In the latter scenario, the creation of a water impoundment from the excavation activity would not fairly qualify as agricultural use given the definition of "agriculture" in Tenn. Code Ann. §§ 1-3-105(a)(2)(A) and 43-1-113(b)(1). But in the former scenario, the establishment of

[3] The same is true of general understandings of "agriculture" and "agricultural" that have hailed outside the specific context of Tenn. Code Ann. §§ 1-3-105(a)(2)(A) and 43-1-113(b)(1). *See, e.g.*, *Moore v. Memphis Stone & Gravel Co.*, 47 Tenn. App. 461, 483, 339 S.W.2d 29, 39 (1959) (upholding injunction of mining operations in an agricultural zone); *Hunters Point Quarry LLC v. Metro. Gov't of Hartsville & Trousdale Cnty.*, No. M2023-00883-COA-R3-CV, 2024 WL 5002988, at *7 (Tenn. Ct. App. Dec. 6, 2024) (stating that quarrying "is unrelated to agriculture"). And in other statutes, the Code effectively speaks to the conceptual divide that exists between agriculture and mining/quarrying. For instance, not only does the Code reinforce the general notion that "quarrying" is non-agricultural by contemplating potential regulation of the activity through county zoning, *see* Tenn. Code Ann. § 13-7-101 (setting out a uniform definition of quarrying "for purposes of all county zoning regulations"), but the Code also speaks to a conceptual divide in the context of defining property for purposes of classification and assessment, *see* Tenn. Code Ann. § 67-5-501(3)-(4). Under this latter Code section, "farm property" includes all real property that is "used, or held for use, in agriculture as defined in §§ 1-3-105 and 43-1-113," whereas "industrial and commercial property" includes property used or held for use "for any commercial, mining, industrial, manufacturing, trade, professional, club whether public or private, nonexempt lodge, business, or similar purpose." *Id.*

[4] For purposes of our discussion on this point—and to facilitate engagement with the specific issues implicated by the request—we assume that the term "farm pond" broadly refers to some type of water impoundment on a farm or agricultural lands.

the pond likely would.[5] The bottom line is that the specific details surrounding land use matter, and with that premise in mind, we shift our attention to the request's raised concerns about excavation size and the commercial sale of extracted minerals.

There is No Size Limit Governing What Constitutes Agricultural Use, but an Excavation Project's Scope Might Point to Non-Agricultural Activity Under Certain Facts.

Strictly speaking, there is no size limit governing whether a given land use may be considered "agricultural" under Tenn. Code Ann. § 13-7-114. As noted earlier, the Code's definition for "agriculture" informs the determination of whether a use is "agricultural" in that context, and the Code's definition does not impose any type of size restraint through its codified meanings. *See* Tenn. Code Ann. §§ 1-3-105(a)(2)(A), 43-1-113(b)(1). To squarely address Question 2, then, we believe that a "farm pond" excavation could be considered agricultural in character irrespective of its size.

That said, we do not believe that the absence of a size limitation means that an excavation project's scope lacks potential relevance. When considered alongside other facts, the size of an excavation site might suggest that a "farm pond" remains insufficiently tethered to agricultural activity. Judicial decisions grappling with similar issues outside of Tennessee are instructive.

Consider *County of Kendall v. Aurora National Bank Trust No. 1107*, a case from Illinois. There, landowners planned to remove sand and gravel to create an irrigation pond for a sod farming operation, but before any digging occurred, the county obtained an injunction on the basis that the landowners' plans would constitute prohibited mining activities. *County of Kendall v. Aurora Nat'l Bank Trust No. 1107*, 524 N.E.2d 262, 263–65 (Ill. App. Ct. 1988). Although the appellate court ultimately reversed the order enjoining the landowners, *id.* at 268, it also favorably acknowledged a concern that the county had raised in the case. Indeed, despite concluding that the landowners' *specific* excavation plans were for an agricultural purpose and thus exempt from county zoning regulation under state law, *id.* at 267–68, the court agreed the potential for a "problem" existed, *id.* at 267. As the county had pointed out, a pond might be created "primarily for its value as a sand and gravel quarry." *Id.* And in that circumstance, the pond's irrigation function might be "carried on only to facilitate the quarry operation." *Id.*

In elaborating on this issue, the court highlighted scenarios it believed "could effectively change the basic agricultural character of the sod operation while still retaining the pond for irrigation purposes." *Id.* First, the court noted that the "extraction of great amounts of material could result in creation of a quarry, or pit, of the type associated with gravel mining, with the irrigation pond located at the bottom." *Id.* Alternatively, the court hypothesized that "sand and gravel could be removed to the extent that the acreage of the [water impoundment] would be far

[5] To be sure, a clear nexus to agriculture would exist under the livestock and crop watering example as generally presented: The excavation work would represent "activity carried on in connection with the commercial production of farm products and nursery stock" under Tenn. Code Ann. §§ 1-3-105(a)(2)(A)(ii) and 43-1-113(b)(1)(B). The reason we say this excavation work would "likely" qualify as agricultural use stems from the need to examine the facts of a given situation. After all, if supplemental facts were layered onto the example as generally referenced, those facts might reveal that the excavation work had only a marginal relationship to agriculture. As discussed later in this opinion, we believe that could matter to a court.

greater than the acreage planted in sod." *Id.* According to the court, such an excavation could "lose its protected status." *Id.* And in the court's view, applying the agricultural purpose exemption to a de facto quarry operation would "frustrate the obvious intent of the legislature to allow agriculture, and only agriculture, to be pursued without zoning restrictions." *Id.* In the end, the court believed that "the facts of each case" should determine whether a given use warrants statutory protection. *Id.*

Similar concerns were found relevant by the Supreme Judicial Court of Massachusetts in *Henry v. Board of Appeals of Dunstable*. There, a landowner planned to hire a contractor to remove 100,000 cubic yards of gravel annually for at least three to four years. *Henry v. Bd. of Appeals of Dunstable*, 641 N.E.2d 1334, 1335 (Mass. 1994). The landowner's goal was to facilitate access to a "cut your own" tree farm, and her plan contemplated that a sustainable crop of 700 to 1,000 Christmas trees could be expected in eight years after completion of all excavation work and planting. *Id.* Additionally, her plan called for the contractor to "sell the gravel at the market rate" and share the profits. *Id.*

Although lower courts had determined that the proposed excavation activity was exempt from zoning regulation under a state law that protected agricultural and horticultural uses, *id.*, the Supreme Judicial Court reversed. Despite acknowledging that planting evergreen trees for a Christmas tree farm fell "within the commonly understood meaning of agriculture or horticulture," *id.* at 1335–36, the Supreme Judicial Court emphasized that the proposed gravel removal project was a "major undertaking," *id.* at 1336. Among other things, the court stated that "the net effect of the volume of earth to be removed, the duration of the project, and the scope of the removal project" were "inconsistent with the character of the existing and intended agricultural uses." *Id.* at 1337. And according to the court, the project would resemble a de facto quarry operation if it were permitted. *Id.* (cleaned up).

Although our research has not uncovered instances where Tennessee courts have been forced to deal with the types of "problems"[6] and issues referenced in the above decisions, we believe that the considerations highlighted in those decisions, and like considerations from other cases,[7] could potentially inform how a Tennessee court evaluates the status of a given "farm pond." After all, even though Tennessee law does not impose a size limit on agriculture, specific facts might belie a professed agricultural purpose for the scope of a given excavation. In our view,

[6] *See County of Kendall*, 524 N.E.2d at 267.

[7] *See, e.g.*, *Marriott v. City of Dallas*, 644 S.W.2d 469, 471 (Tex. 1983) (noting that the "depth of the excavation went beyond that required for the catfish ponds" and observing that one of the property owners had even testified that the work could be fairly described as a sand and gravel mining operation).

therefore, the facts of an individual case are paramount.[8] This is consistent with the law's treatment of numerous other topics where purpose can be inferred from the granular facts of a given case.[9]

To be sure, we do not suggest that a Tennessee court would rigidly apply any of the specific analytical approaches we have referenced. Nor do we suggest that these out-of-state decisions—and others like them—are even in complete alignment in terms of their respective analytical frameworks. But the referenced decisions and any approach adopted by a Tennessee court would likely share a common link. For one, we believe that a Tennessee court would also scrutinize the specific facts associated with a given excavation. And by extension, a Tennessee court likely would not consider an excavation to constitute agricultural land use *simply* because *some* connection to agriculture arguably existed. If the agricultural operations associated with a project were negligible in relation to the scope of the excavation itself, for instance, we think that a court would be hard-pressed to conclude that the excavation constituted agricultural land use. The mere presence of a tenuous agricultural connection would not control.

In summary, despite the absence of a size limit on agriculture, an excavation project's scope could point to non-agricultural activity under certain circumstances. As is often the case, specific facts and context matter.

Although Mineral Sales Connected to an Excavation Could Suggest that the Excavation is Non-Agricultural, Specific Facts Matter.

In a similar way, we think that specific facts concerning Question 3's subject—mineral sales—also could be relevant. Or put differently, we believe that the size considerations mentioned above are likely to be especially relevant if an extensive "farm pond" excavation coincided with significant mineral sales. When the anticipated financial benefit comes more from excavation than from cultivation, that looks less like agriculture. For example, if a given excavation bore the hallmarks of a de facto quarry operation and any ties to agricultural activity were only marginal, we think a landowner's assertion that the excavation constituted agricultural use under Tenn. Code Ann. § 13-7-114 would likely invite judicial skepticism. To this end, we believe that the type of considerations from the Illinois and Massachusetts decisions referenced above are again instructive. *See, e.g.*, *County of Kendall*, 524 N.E.2d at 267 (referencing the potential for a de facto quarry operation and expressing concern that the statutory exemption for agricultural purposes might be "manipulated and twisted into a protection for virtually any use of the land as long as some agricultural activity was maintained on the property").

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[8] In some instances, the scope of an extensive "farm pond" excavation might appear to be incommensurate with the scale of existing or planned agricultural operations. And depending on specific details, that juxtaposition might lead a court to conclude that the excavation constituted non-agricultural use. On the other hand, the scope of another excavation might have a clear connection to the scale of agricultural operations on a farm, even where the scope of the "farm pond" excavation is generically "large."

[9] *See, e.g.*, *Watson's Carpet & Floor Coverings, Inc. v. McCormick*, 247 S.W.3d 169, 176 (Tenn. Ct. App. 2007) (Because "a precise or all-encompassing definition of 'improper' was neither possible nor helpful," determining "[i]mpropriety will depend on the facts and circumstances."); *In re Audrey S.*, 182 S.W.3d 838, 864 (Tenn. Ct. App. 2005) ("[T]riers-of-fact must infer intent from the circumstantial evidence, including a person's actions or conduct."); *cf. State v. Nelson*, 275 S.W.3d 851, 866 (Tenn. Crim. App. 2008) ("[T]he trier of fact may infer from the amount of the drugs, along with relevant facts surrounding the arrest, that the drugs were possessed for the purpose of selling them.").

To be clear, though, we do not think that a Tennessee court would consider a "farm pond" excavation to be non-agricultural activity simply because minerals removed in the excavation were sold. As we have discussed, some "farm pond" excavations could have a legitimate nexus to agriculture, as specific facts might show that they were "carried on in connection with the commercial production of farm products and nursery stock." Tenn. Code Ann. §§ 1-3-105(a)(2)(A)(ii), 43-1-113(b)(1)(B).[10] And just as we do not think that the incidental removal of minerals during such excavations would negate the notion that the excavations were "carried on in connection with the commercial production of farm products and nursery stock," we do not think that subsequent sales of minerals incidentally removed would either. The law does not prohibit some marginal windfall coincident to a larger project.

Apart from our own thoughts on the matter, we note that several courts dealing with similar questions have found merit in this type of approach. In the Illinois decision referenced above, for instance, the court stated that it did not need to further consider the landowners' business activities once it had determined the excavation would serve an agricultural purpose. *County of Kendall*, 524 N.E.2d at 268. According to the court, what the landowners did with the sand and other materials they removed from the excavation site was "irrelevant" in that posture. *Id.* Likewise, in a case where a farmer had blasted rock to excavate a pond for agricultural purposes, the Kansas Supreme Court held that the farmer's ability to sell the blasted rock as a by-product of the pond's creation "did not . . . alter the intended purpose." *VanGundy v. Lyon Cnty. Zoning Bd.*, 699 P.2d 442, 446 (Kan. 1984).

In short, although we believe that evidence of commercial mineral sales could suggest that a given "farm pond" excavation project constitutes non-agricultural land use when considered alongside other facts, the mere presence of mineral sales is not conclusive. Under some factual scenarios, a "farm pond" excavation might legitimately be described as agricultural use even when minerals removed in the excavation are sold. Specific facts matter.

If a "Farm Pond" Excavation is Considered Non-Agricultural Use, County Zoning Requirements Would Typically Apply.

If a court ultimately determined that a given "farm pond" excavation did constitute a non-agricultural use of land, county zoning requirements would apply absent special circumstances.[11]

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[10] Beyond what we have already discussed, we note that certain Tennessee laws echo this elementary understanding that a "farm pond" could have a nexus to agricultural activity. *See* Tenn. Code Ann. § 55-4-113(a)(3)(D) (concerning vehicle registration and recognizing that certain tractors might be employed in the transportation of machinery used for "agricultural purposes" such as "building ponds"); Tenn. Code Ann. § 69-11-102(8) (defining a "farm pond" for purposes of the Safe Dams Act and signaling that an impoundment might be used to provide water for "agricultural" purposes).

[11] For purposes of our discussion on this point, we assume that the excavation site would lie within the scope of the county's zoning authority. *See* Tenn. Code Ann. § 13-7-101(a)(1) (empowering action "in the portions of such county which lie outside of municipal corporations"). We further assume that enforcement of any local zoning would not create any issues connected to federal interests. *See* 83 Am. Jur. 2d *Zoning and Planning* § 305 (May 2026 Update) (observing that "[a] county may zone property owned by the federal government provided the legislature recognizes the immunity of federal activity from local control to the extent such immunity exists").

Of course, what this means in practice would depend on the specific character of the local zoning that the county had adopted. After all, although the county may have adopted a zoning ordinance that prohibits the excavation at issue, it alternatively may have taken action to permit the activity in the area.[12] The analysis would thus typically depend on the specifics of local laws.[13]

Even so, the specifics of a county's zoning regime would not necessarily be dispositive. In certain instances, the enforcement of zoning restrictions could be affected by the grandfathering protection available to business operations through Tenn. Code Ann. § 13-7-208(b). And because that provision allows certain users of property to "lawfully continue uses that would otherwise violate a zoning ordinance," *Ready Mix*, 380 S.W.3d at 67, a county's decision to prohibit non-agricultural excavation activity in an area may not be controlling. Specific facts would matter in this context, too.[14]

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[12] Although a given county might lack operative zoning regulations, the request appears to assume that some type of county zoning regulations would be in place.

[13] As this Office has previously explained, counties sometimes even allow "patently non-agricultural uses" in areas zoned for agriculture. Tenn. Att'y Gen. Op. 08-145 (Sept. 10, 2008).

[14] Land users who invoke Tenn. Code Ann. § 13-7-208(b)'s grandfathering protection bear the burden of establishing several things. Not only must these users show that there has been some type of change in zoning and that the use to which they put their land was permitted before the change, but they must also establish that their business was operating when the change in zoning took effect and that the current business is the same business that was being conducted when the zoning change occurred. *Ready Mix*, 380 S.W.3d at 67 (cleaned up).