

**Comprehensive Plan 'Consistency' Analysis  
Pre-Existing Quarry Operation**

**Off Old Oxford Road  
Tax Assessor's Map 7 - Lot 38**

Prepared for: Material Sand and Stone Corp.

Prepared by: Pimentel Consulting, Inc.

22 January 2025

### **INTRODUCTORY STATEMENT**

Material Sand and Stone Corp. (“Applicant”) has retained the professional land use planning and zoning consulting services of Pimentel Consulting, Inc. (“Consultant”), in order to provide a professional opinion on the relationship between a pre-existing legal nonconforming quarrying operation and the Community’s Comprehensive Plan; rendering a determination on operational ‘recognition’ and ‘consistency’. Such regulatory review will ensure that the referenced historically established quarrying entity is allowed to continue in a legitimate fashion, while doing so in a manner that meets the operational needs of Applicant and operational constraints of community officials, alike. In order to achieve such successful dual aspirations, a regulatory mechanism must be crafted that legitimizes solely those quarry entities that have long-established historical roots, thereby averting their proliferation. The following analysis offers such a mechanism while evidencing its ‘consistency’ with the Comprehensive Plan, as mandated by both local regulation and state law.

In support of evidencing operational appropriateness and consistency, this Consultant has investigated the quarrying entity to fully understand the full gamut of its activities, in addition to thoroughly reviewing the following regulatory documents:

- Town of North Smithfield, Rhode Island, Comprehensive Plan 2019 - Adopted 1 April 2019 (“Comprehensive Plan”), which clearly evidences general support for this Consultant’s text amendment:

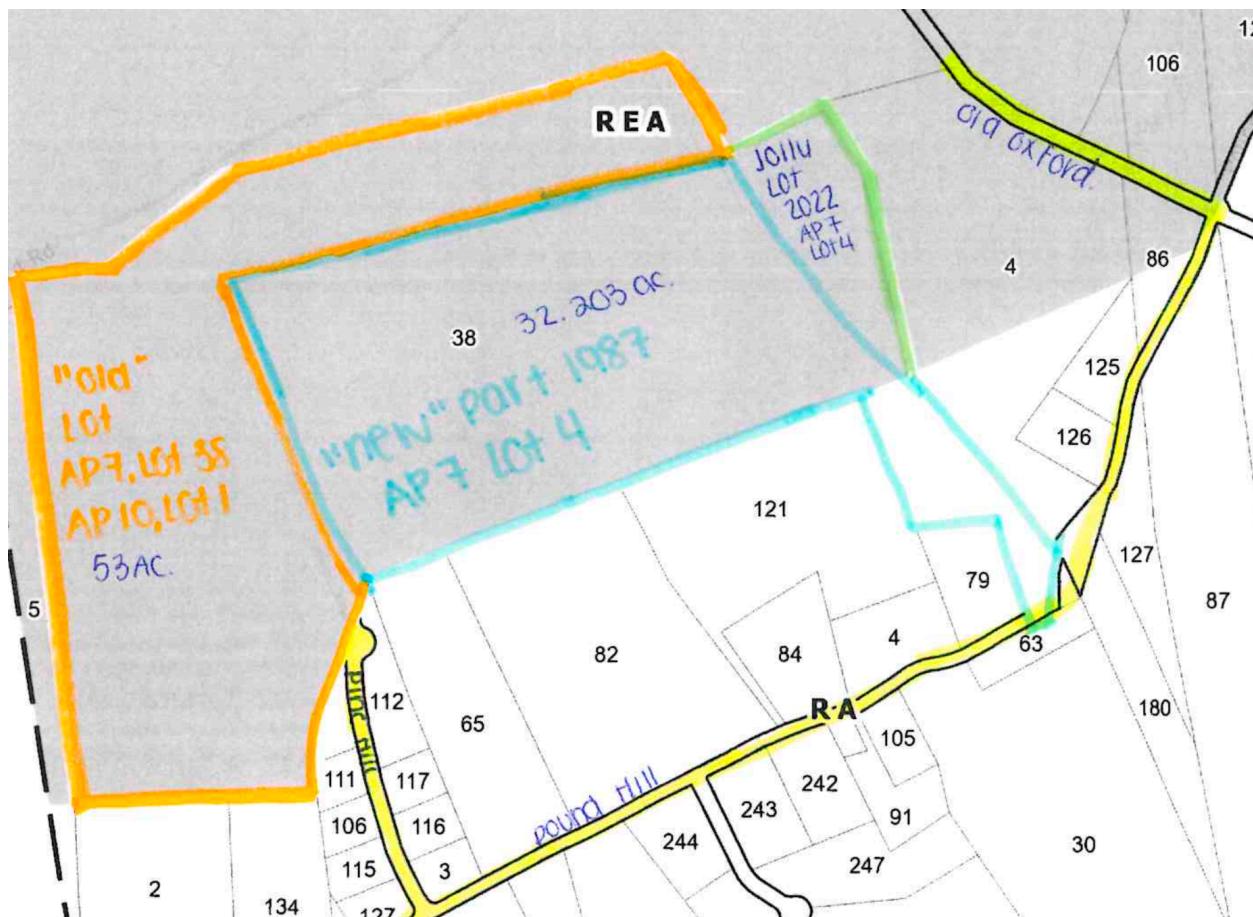
**Economic Development Element- Strategic Planning:** “Comprehensive plans are normally general guiding land use documents which require coordination with the Town Council, Planning Board, and, on occasion, the Zoning Board to implement them. The action items found in the Goals/Policies/Actions table at the end of this chapter are specific and do not necessitate additional strategic plans. Some actions relate to zone changes to enhance the Town’s non-residential tax base. Future commercial/industrial zone areas were further discussed in detail in the context of the Town’s road system with particular attention having been given to the functional classification system. There are ways to utilize the existing road network in a manner that allows for growth that will not compromise rural-suburban characteristics for the vast majority of residents.” [Page 43]

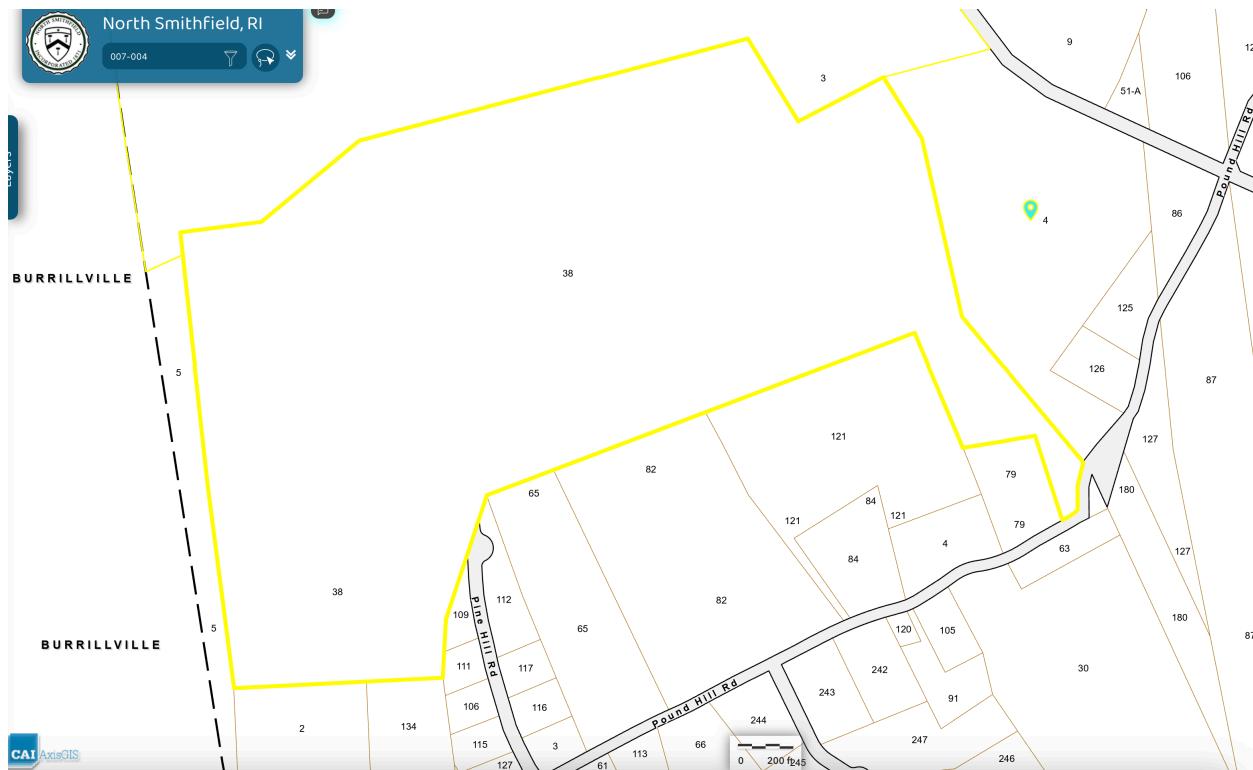
- Town of North Smithfield, Rhode Island, Zoning Ordinance (“Ordinance”);
- Town of North Smithfield, Rhode Island, Land Development and Subdivision Regulations - (“Development Regulations”); and,
- Pertinent Rhode Island General Law (“RIGL”) and case law.

This report will evidence consistency with the overall goals and objectives of the Comprehensive Plan, thereby affirming the appropriateness of the proposed regulatory amendment.

**PRESENT PROPERTY CONDITION(S)**

The subject property is accessed via Pound Hill Road, by way of a right-of-way identified as Pine Hill Road. The property is designated Tax Assessor's Map 7, Lot 38, and containing upwards of 90-acres of total land area ("Property"). The Property is in fact comprised of several smaller parcels, having been properly 'merged' due to insufficient lot frontage, otherwise being land-locked. The present configuration and individual, now merged parcels, are illustrated below and on the following page as excerpted from the Applicant's legal counsel and Town's GIS, respectively.





The Property is presently zoned in a Rural Estate Agricultural District ("REA District") manner. The REA District is defined pursuant to Section 340-3.2.A 'Intent of Each Zoning District' of the Ordinance, as follows:

**Rural Estate Agricultural (REA)** - *"This District is established to provide protection to areas where the conservation of water bodies and streams are of significant importance, where development may be threatened by flood, or would increase the danger of flood elsewhere and where limited agricultural pursuits and low-density residential uses are compatible with open space objectives."*

However historical quarrying usage, albeit prohibited within the present REA District designation, is well documented, as is their presence next to contaminated sites thereby for all practicable purposes extinguishing permissible residential development. The following language and illustration(s) on the following page, as excerpted from the Town's GIS and Comprehensive Plan, respectively, detail the long-standing presence of a quarrying operation.

## Rural Estate Agricultural (REA) – Low Density (formerly Rural Residential Conservation (RRC))

*"The REA area covers land and groundwater aquifer areas requiring conservation action. It includes major natural areas such as Todd's Pond, Cedar Swamp and Cedar Brook, all sensitive*

areas where utilities should not be provided and open space preserved. The designated area also has been established as a buffer district along Trout Brook, Trout Pond, Dawley Brook/Pratt Pond and around the Slattersville Reservoirs. It is proposed that the buffer be increased to include the portions of the Reservoir’s drainage area and the Slattersville Aquifer and aquifer recharge area between the Reservoirs and Pound Hill Road. This area encompasses the Landfill & Resource Recovery and Western Sand & Gravel EPA Superfund sites. Less than 10 percent of the REA area is currently developed. Development proposals must consider the constraints associated with the existence of the EPA Superfund sites and the need to protect the Slattersville Aquifer and Reservoirs.” [Page 15]

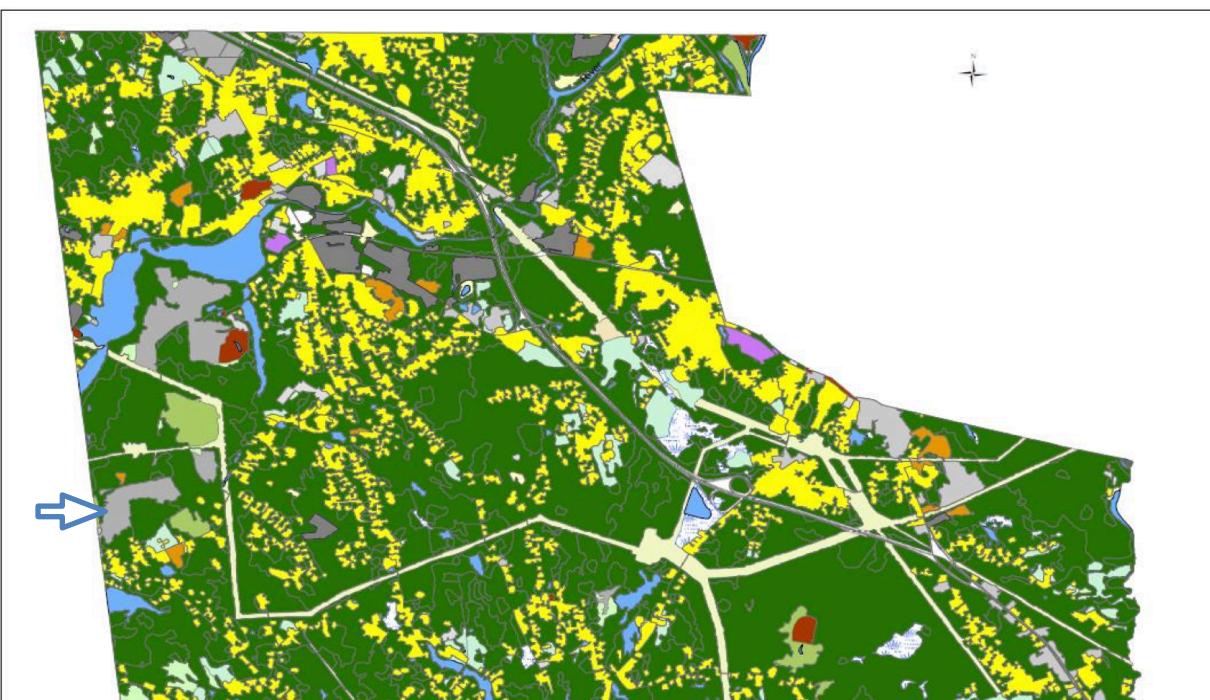
**Map III.2 ‘Existing Land Use’**

[\[Page 29\]](#)

[GIS](#)



Map III. 2. Existing Land Use



The referenced quarrying exemption is supported by the Comprehensive Plan, as mandated by RIGL. Ordinance regulations are established for the express purpose of furthering respective goals and objectives of the Comprehensive Plan.

### **Soil and Earth Removal Ordinance**

**“The Soil and Earth Removal Ordinance does not apply to several sand and gravel operation which were in operation prior to the enactment of the Ordinance.** One, for example, is located between the Slatersville Reservoir and the Slatersville groundwater reservoir. Since critical resources of the Town and State may be at risk, the Town should reexamine present regulations about the underlying water resources and adjacent wetland and surface waters and the restoration of the land in a manner which will provide long-term protection.” [Page 85]

Therefore, in order to squelch this disagreement and realize regulatory clarity, the proposed regulatory amendment will address the by-right physical parameters of the quarrying operation. This will ensure successful continued operations in a collaborative community supportive manner.

## **COMPREHENSIVE PLAN ANALYSIS**

### **Land Use and Economic Development Element Analysis**

It is the professional opinion of this Consultant that the Comprehensive Plan generally recognizes the presence of nonconforming land uses, and specifically quarrying operations (as evidenced by the above illustrations), thereby proffering regulatory supportive recommendations.

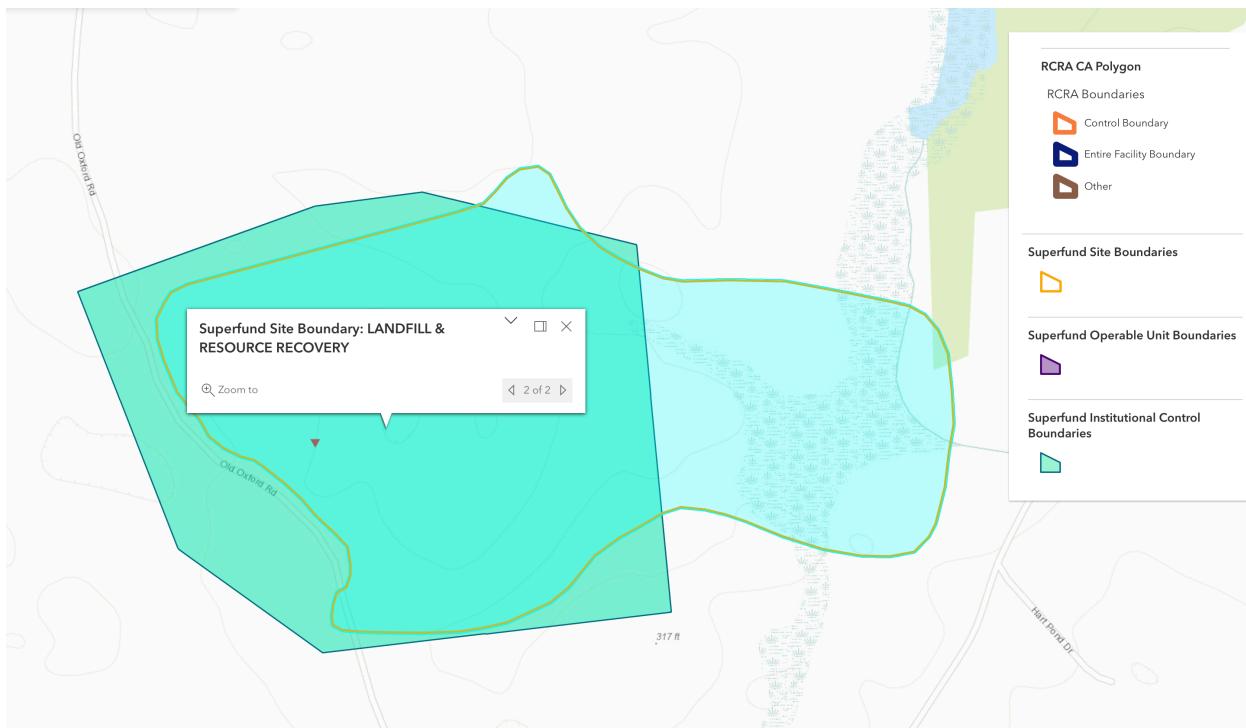
**“The Land Use Element becomes a major tool for implementing the goals and policies of other elements of the plan through changes of use or as a result of revisions in zoning or other development regulations. Economic growth opportunities are furthered by the allocation of land areas for commercial, manufacturing or other job and tax base enhancing development.** Water resources in underground aquifers or surface reservoirs can be protected, in part, by land use decisions within recharge and drainage areas. **When asked what type of growth should be encouraged, respondents to a 2014 Community Survey indicated that industrial development, office and retail development were most important** with the building of age-restricted housing following. Seventy-six percent of respondents felt that the town should encourage permanent open space.” [Pages 11 - 12]

**“A detailed buildout of all non-residential zone districts was performed using GIS and 2014 aerials. The findings indicate that North Smithfield has very little undeveloped commercially-zoned property remaining.** As a result, the Town must consider both flexibility in its subdivision and land development process to **encourage development of remaining industrially-zoned land, along with potential zone changes to add to the Town’s industrial base.**” [Page 51]

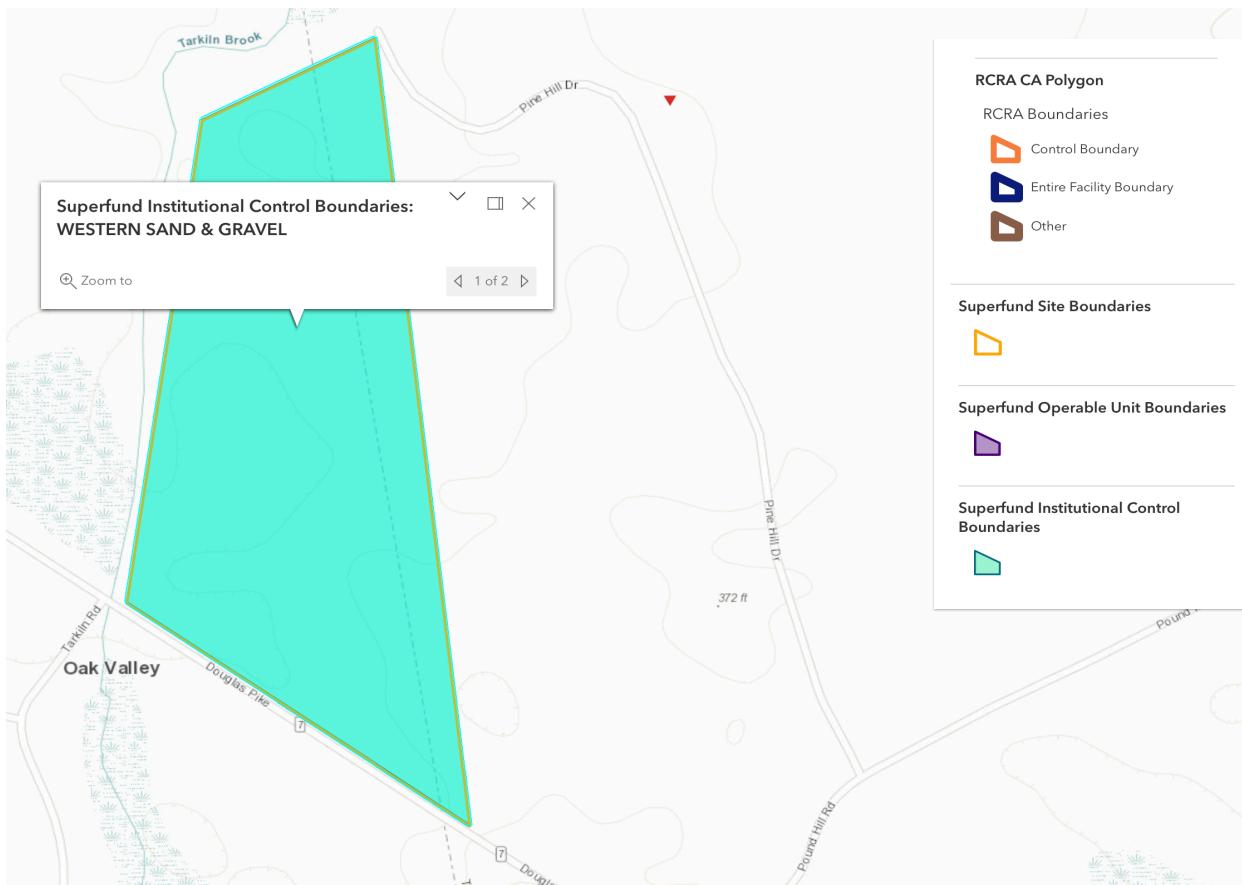
It is this very general support that generates the foundation for concluding Comprehensive Plan 'consistency'. The Property is limited to subject land use, because it is literally incapable of being used for its intended primary land usage, namely residential development, due to the presence of contiguous contaminated 'Superfund Sites'. The following information has been excerpted from the Comprehensive Plan, in addition to illustration(s) of respective Superfund Sites from the Environmental Protection Agency website, respectively.

**Surface water resources impaired waters, and watersheds** - "State Guide Element 162 classifies the various river segments in North Smithfield as follows: The Branch River from its confluence with the Clear and Chepachet Rivers to the Slattersville Reservoir is suitable for swimming or fishing. It has recreational open space value, and mill villages are located along its corridor. (Classified as "Recreational Open Space") Slattersville Reservoir (both upper and lower) has recreational value and is designated as swimmable and fishable. It has a state boat ramp and fishing club access. Its current condition with respect to contact recreation is, however, marginal due to coliform and metals levels that exceed state standards. **The Land Resource and Recovery Landfill Superfund site is located near the Reservoir.** (Classified as "Recreational Open Space")" [Pages 73 - 75]

**Landfill & Resource Recovery Site**  
**[58.47-Acres]**



**Western Sand & Gravel Site**  
**[48.87-Acres]**



This Consultant also believes that albeit a differing land use, a quarrying operation can nevertheless co-exist given the sparse residential presence. The inclusion of site design considerations, such as fencing and vegetative buffering, will ensure that the operation remains both safe and visually compatible. It is most assuredly the Town's desire, given the limited availability of commercial and industrial land resources, and preservation of those areas lacking requisite infrastructure. This has resulted in placing greater burden on the residential tax base. The referenced conclusions are further corroborated by the following excerpted Comprehensive Plan language.

**Land Use - Introduction:** "According to State Comprehensive Planning Guidance Handbook #13, "Planning for Land Use", The term *land use* signifies the physical ways in which we use, or develop, land. **There are a wide variety of land uses, including** residential, commercial, **industrial**, conservation, recreation and agricultural. **Land use can require the physical alteration of land**, the preservation of land in its natural state, or a combination of both. **For comprehensive plans, planning for land use implies creating a balance of land uses**

**that is appropriate for achieving the community's goals and is reflective of the natural characteristics of the land, its suitability for use, and the availability of existing and proposed public and/or private services and facilities. Land use planning must also be consistent with available resources and the need to protect public health, safety and welfare.**" [Page 11]

**Housing - Limited sewer and water infrastructure:** "The portions of North Smithfield which do not have access to public water and sewer are served by on-site wells and individual sewage disposal systems. This limited public infrastructure restricts sustainable densities outside of public utility areas... **Infrastructure inadequacies act as a barrier to** not only deed-restricted affordable housing, but all housing and **non-residential development**." [Page 37]

**Zoning -** "North Smithfield's Zoning Ordinance establishes four (4) residential zoning districts, ranging from REA-120 to RU-20. **Eighty-eight percent (88%) of the land in North Smithfield is zoned residential...**" [Page 37]

## Financial Revenue Basics and Trends

"**North Smithfield's revenue is dominated by residential taxes.** The commercial tax revenue has been growing which helps to mitigate the tax burden to residents. **However, the delta between commercial and residential is nearly identical to that of 2006 which tells us that reliance on residential revenue vs that of commercial has not made the progress we'd prefer.** It would appear that the reliance gap shrank during 2011 and 2012, however that was a result of the post 2008 recession. Residential values are rebounding but the structural reliance has not changed much. Table IV. 1., below, summarizes the tax revenue and trend over the past ten years." [Page 44]

"**We must address the challenge of increasing revenue from commercial taxes** to meet the town's financial needs without raising residential taxes in addition to creating local jobs to the greatest extent possible. The expansion of this tax base is critical to a community's success in stabilizing residential tax rates, controlling the cost of living for its residents, and generating tax revenues to fund quality municipal services, the most demanding of which is public education. Expanding the commercial tax base also allows the commercial tax rate to be low, which in turn attracts business." [Page 46]

## Economic Development Table IV. 8.

**Policy 1.b. -** "Communicate regularly with the business community to understand how or if government has a role in growth opportunities." [Page 56]

**Action 3.a.1. -** "Review the Zoning Ordinance as it pertains to industrial and commercial zoned areas and investigate the feasibility of implementing greater use flexibility in these zones along with design standards." [Page 56]

**Policy 3.b. -** "Amend regulations that inhibit redevelopment and investment into historically-contaminated sites." [Page 57]

"Also, a detailed buildup of all non-residential zone districts was performed using GIS and discussed later in this chapter in section entitled "Non-residential buildup analysis". All maps related to the buildup are available in Appendix A. **The findings confirm that North Smithfield has very little undeveloped commercially-zoned property remaining. As a result, the Town must consider both flexibility** in its subdivision and land development process to encourage development of remaining industrially-zoned land, along with **potential zone changes to add to the Town's industrial base**. Such will likely require cooperation between the Planning and Zoning Boards for subdivision and land developments. Areas for potential future zone changes, perhaps after the town builds out its existing industrial areas."

The illustration below, as excerpted from the Applicant's submission package [Credit: Joe Casali Engineering, Inc.], details the sole residential presence situated to the south of the subject quarrying operation. The nearest residence appears to be distanced in excess of 600 linear feet, all of which is comprised of thick mature vegetation.



**CONCLUSION**

In summary, this Consultant believes that neither the Town of North Smithfield Planning Board or Town Council should have any reservations in permitting continued usage of the Property for appropriating quarrying operations. It is the professional opinion of this Consultant, that it will realize consistency with the Comprehensive Plan as mandated by law.