

APPENDIX B: APPLICATION FOR SUBDIVISION AND LAND DEVELOPMENT PROJECTS

The undersigned owner of land hereby requests to be placed on the agenda of the North Smithfield Planning Board and state that the required information detailed in the Subdivision Regulations of the Town of North Smithfield have been presented to the Administrative Officer.

Ryan C. Hurley of Kiernan, Plunkett & Redihan, LLP
is hereby designated as the person to whom legal process may be served in condition with any proceedings arising out of this application. I/We also certify that the undersigned is the owner of the property designed below:

Name of Project: High Rock Condominiums Date: 11/29/2021

Classification

☐ Minor
☒ Major

Type of Project

☐ Administrative
☐ Subdivision
☒ Land Development Project

Review Stage

☐ Pre-Application/Concept
☐ Master Plan
☐ Preliminary Plan
☒ Final Plan

1. Assessor's Plat(s) 3 Assessor's Lot(s) 2
2. Number of Lots: 1 3. Zoning Designation(s): M-Manufacturing
4. Street Name: 1 Tupperware Drive
5. Divider/ Developer: High Rocks II, LLC
6. Divider's/ Developer's Name: armen Harootian
(Please Print)

Divider's/ Developer's Name: _____
(Signature)

7. Names, addresses, and signatures of all persons with 10% or more interest:

Amy Hardin Amy Hardin
(Signature) (Please Print)
Carrie Stevens Carrie Stevens
(Signature) (Please Print)
Armen Harootian Armen Harootian

8. Surveyor/ Engineer/ Attorney/ Representative: Ryan C. Hurley

Name: Ryan C. Hurley

Address: 146 Westminster Street, 5th Floor, Providence, RI 02903

Daytime Telephone # 401-831-2900 Facsimile # 401-331-7123

(The owner hereby grants permission to Planning Board members and other Town officials to enter the designated property for the purpose of inspection after notifying the owner 48 hours in advance of site visit.)



Partners:

Thomas C. Plunkett
Charles N. Redihan, Jr.
Eric B. DiMario ♦
Ryan C. Hurley
Brittane N. Donley ♦ †

Associates:

Charles N. Redihan, III ♦
Alison M. Plunkett

Founding Partner:

Leonard A. Kiernan, Jr.
(Retired)

Of Counsel:

Michael R. Calise
Robert N. Huseby
Robert W. Smith ♦
Robert D. Vulvo

Edward J. Plunkett (1940-1991)
John A. DeSano (1956-2008)

♦ Also admitted Massachusetts

† Also admitted Connecticut

December 1, 2021

North Smithfield Planning Board
Memorial Town Building
One Main Street
P.O. Box 248
Slatersville, RI 02876

Re: High Rocks II, LLC
Vs. Town of North Smithfield
Plat 3 Lot 2

Dear Board Members:

Please allow this correspondence to serve as a brief history of the development that has taken place at 1 Tupperware Drive since 2006. On October 18, 2006, the Town of North Smithfield Planning Board approved the master plan of Blackstone Smithfield Corp. to convert the old Tupperware Mill building into a mixed-use residential/commercial/warehouse building. Blackstone Smithfield Corp. is the predecessor of High Rocks II, LLC. On February 23, 2017, the Town of North Smithfield Planning Board approved the preliminary plan of Blackstone Smithfield Corp. In conjunction with this development, the Town of North Smithfield Zoning Board granted a special use permit to allow residential units at the property and to allow commercial/warehouse uses on November 14, 2006.

Over the following years, the project was built. As you may remember, the country went through a significant housing crisis during those years. The impacts of the housing crisis were significant on this development. As a result of the housing market crash approximately 25% of all the residential condominium units that were sold met the requirements for affordable housing. The Town had no program to allow a greater incentive to buyers and, therefore, a buyer could purchase the non-restricted unit for the same price as a deed restricted unit. Blackstone Smithfield met with an affordable housing agency to discuss this issue and, for the same reason explained above, the agency chose not to participate. Blackstone Smithfield worked with the Town Manager, Town Assessor and Town Planner but the affordable units were simply unsellable without greater incentives. Blackstone Smithfield also went as far as to privately fund the purchase of 3 affordable housing unit; but within one year each of those buyers failed to fulfill their financial obligations and the units were foreclosed

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KPR

Attorneys At Law

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upon. Then, on February 11, 2009 the Town recorded an approved plan which does not reference the number of residential units nor any affordable housing.

On July 19, 2018 and September 28, 2018, the Town sent letters to Blackstone Smithfield Corp. regarding the issue of affordable housing and stated that the Town would not issue additional permits or C.O.'s until the issue was resolved.

To address the issue of affordable housing, High Rocks II first submitted an application for a major land development on Plat 3 Lot 2A to the Planning Board. This major land development consisted of constructing a new standalone building on Plat 3 Lot 2A that would have been comprised of 14 affordable housing units for rent. After a couple of hearing, the Planning Board approved High Rocks II's combined pre-application/masterplan.

Thereafter, an opportunity arose that would allow for the affordable housing units to be built in Tupperware Mill Building on Plat 3 Lot 2. This new solution to the affordable housing issue had many advantages but, most importantly, it alleviated one of the Planning Board's concerns in that it allowed the affordable housing units to be mixed in with the other non-deed restricted residential units and not located in a separated standalone building. The space for those new residential units in the Tupperware Mill Building came when a commercial tenant vacated its space. High Rocks II put together a design to build 38 new residential rental units within that vacated commercial space. Of those 38 new residential rental units, High Rocks II proposed that 18 be low/moderate income affordable housing. This new plan will provide the Town with the 12 affordable units needed to satisfy the 10% minimum for the first development plus an additional 6 more affordable units.

On February 6, 2020, the Planning Board approved High Rocks II's new proposal subject to approval from the Zoning Board, and with the requirement that High Rocks II must return to the Planning Board for final approval.

On or about June 29, 2020 High Rocks II submitted an application to the Town's Zoning Board of Review seeking a variance to accommodate the increased number of residential units. That application went to hearing but was denied.

Next, High Rocks II worked diligently with the Town Council to avoid litigation on this matter. The Town Council amended the Town Ordinance, Chapter 10,

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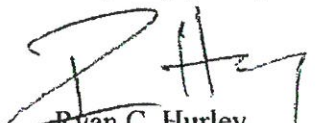
Article 3, Section 10-64 whereby said project may have one hundred thirty-three (133) residential units of which three must be affordable housing units.

Currently, the Tupperware Mill Building consists of 133 residential condominium units. The Town issued building permits for all these units including the so called "ground keepers" building. The Town has issued all of the occupancy certificates for residential condominium units except for the "ground keepers" building, which remains under construction.

High Rocks II also designated three affordable housing units. Those units are 204, 219, and 212. My client executed a monitoring service agreement with Community Land Housing Land Trust of Rhode Island which was recorded in the land evidence records on September 15, 2021.

My client now comes before this Board asking to amend the final plan so that the recorded amended final plan shows the total number of residential units and the number of affordable housing units and makes reference the Town's Amended Ordinance.

Very truly yours,



Ryan C. Hurley
RCH/klc
rhurley@kpirlaw.com

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Town of North Smithfield, Rhode Island**North Smithfield Planning Board
Preliminary Plan Decision*****I. The Applicant***

Property Owner's / Developer Name: Blackstone Smithfield Corp. (HIGH ROCK Condos.)

Property Owner's / Developer Address: 1 Tupperware Drive, Suite 2
North Smithfield, RI 02896

Engineer/Surveyor: Marc Nyberg Associates, Inc.

Business Telephone Number: (401) 762-2870 **Fax Number:** (401) 762-2871

II. The Property

Location: Butler Street

Address: 1 Tupperware Drive

North Smithfield Assessor's Plat(s): 3 **Lot(s):** 2 & 2A

Zoning Designation: M (Manufacturing) & REA-120

Type of Proposed Development: Major Land Development Project

RECEIVED FOR RECORD
NORTH SMITHFIELD R.I.

Feb 23, 2007 at 09:52:47A

BOOK 378 PAGE 146
DOC #: 00006822

III. Statement of Review, Hearing & Authority:

During public meetings conducted on January 4, 2007 and February 1, 2007 before the North Smithfield Planning Board held in the Planning Board Chamber, Kendall-Dean Administration Building, 83 Greene Street, Slatersville, Rhode Island, the above matter was heard under the provisions of the *Town of North Smithfield, Rhode Island Land Development & Subdivisions* pursuant to Title 43, Chapter of the General Laws of the State of Rhode Island & Providence Plantations, entitled "*The Land Development and Subdivision Review Enabling Act of 1992*".

IV. Findings of Fact:

Pursuant to such hearing and testimony by appropriate representatives of the land owner and/or proposed developer, the North Smithfield Planning Board, upon careful deliberation and in accordance with the provisions of Article 1-5. Purpose and Authority – *Required Findings*, has arrived at and agreed upon the following findings of fact by majority vote:

- (1) The proposed development *is consistent* with the *North Smithfield Comprehensive Community Plan 1991-2010*, as approved by the North Smithfield Town Council March 16, 1992, and the Director of the Rhode Island Department Administration on November 20, 1995 and/or has satisfactorily addressed the issues where there may have been inconsistencies.

A number of goals policies and action items in the Comprehensive Plan call for the redevelopment of the mill as long as an affordable housing component is included.

2. PROMOTE "SMART DEVELOPMENT" BY DIRECTING MEDIUM TO HIGH DENSITY HOUSING TO AREAS IN OR IMMEDIATELY ADJACENT TO ESTABLISHED VILLAGES

6. ENCOURAGE CAMPUS-TYPE MIXED USE, LIGHT INDUSTRIAL OR RESEARCH AND DEVELOPMENT ACTIVITIES IN AREAS ACCESSIBLE TO MAJOR ROADWAYS AND SERVED BY SEWER AND WATER SERVICES

A. Develop a mixed use ordinance that will allow the conversion of the Slatersville Mill complex, the Blackstone Smithfield Industrial Park (former Tupperware Mill), and the Branch River Industrial complex to mixed use including light industry, offices, housing, public and semi-public and other compatible activities.

Action Item 3.2: Mandate a minimum of 10% affordable housing in proposed Mill Rehabilitation districts. The Town is developing a mill rehab ordinance that will encourage the redevelopment of the Town's underutilized mills. A provision of the proposed ordinance will encourage developers to reserve 20% of the housing units as affordable and will require as a minimum that the developers set aside at least 10% of the proposed residential units for low-moderate income residents. Communications with the development community may result in more than 10% being set aside as affordable for specific projects, however, no other general incentives are currently contemplated.

Action Item 3.3: Monitor North Smithfield's underutilized mill buildings for redevelopment into affordable housing. Due to its industrial history, North Smithfield has several large mill buildings. Although some of these mill buildings continue to be used for industry the Town will evaluate their feasibility for redevelopment into affordable housing should they change hands or become vacant. The mill buildings are ideal locations for affordable housing development as they are serviced by public water and sewer and are located within village areas.

- **Blackstone-Smithfield Office & Industrial Park Complex (formerly Tupperware)** The historic brick mill structure in the former Tupperware Mill complex is currently occupied by a few industrial tenants, but contains a large amount of vacant space. A mixed use redevelopment proposal calling for 130 housing units has been presented to the Town and a minimum of 10% of the units will be required to be affordable with a target of 20%. If the current redevelopment proposal should not move forward, the Town will continue to seek redevelopment proposals for the complex and will encourage a minimum of 20% affordable housing.

8. ENCOURAGE APPROPRIATE REHABILITATION OR ADAPTIVE REUSE FOR BUILDINGS AND AREAS AS A PROTECTIVE MEASURE

A. Be pro-active relative to the reuse of underutilized, significant privately owned buildings.

(2) The proposed development is in compliance with the standards and provisions of the *North Smithfield Zoning Ordinance* of June 29, 1993, as amended, and/or variances issued thereunder.

A Special Use Permit for the project was granted by the Zoning Board of Review on November 14, 2006 and was based on a recommendation from the Planning Board with the following conditions:

1. *Submission of a photometric plan indicating that no light will spill off the site onto neighboring properties and no glare from the parking lot and exterior lights on the site will impact onsite units or neighboring properties.*

2. *No industrial and/or commercial uses shall be introduced to the manufacturing portion of the building as depicted on the plans, which would cause any noxious odors, noise or dust to create a nuisance or interference with the quiet enjoyment of residential units to be constructed on the site.*

3. *Hours of operation for the manufacturing or commercial use are limited to 7 am to 10 pm Monday-Saturday.*

(3) There will not be significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions of approval and potential impacts upon adjacent wetlands.

The development of the Mill as proposed will eliminate a wastewater treatment plant that is polluting the Blackstone River. The mill will be connected to sewers in Blackstone, MA in accordance with an agreement entitled "Agreement for Municipal Sewer Connection" executed on August 17, 2006. All work will be performed outside of RIDEM jurisdictional wetland or is exempt from RIDEM regulations (See December 20, 2006 letter Natural Resources Services, Inc.). Catch basins in the development both new and existing will have oil water separators. A RPEDES permit was issued for the project on December 22, 2006 (RPEDES Permit #RJR100614)

(4) The Major Land Development Project, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impaired by adjoining wetland.

See # 3 above.

(5) All proposed land development and lots will have adequate and permanent physical access to a public street, and meet the square footage or frontage requirements of the zoning ordinance and the subdivision regulations.

A traffic impact analysis was performed which indicates that internal roadways and nearby intersections will operate at acceptable levels of service. A portion of Butler Street in Blackstone will be widened and sidewalks will be extended into the project. As agreed to by the Town of Blackstone, MA.

V. Approval/Denial:

Based upon the testimony and evidence gathered by the North Smithfield Planning Board in written and oral form during the above-referenced hearing, the following motion is hereby recorded as the official action of the North Smithfield Planning Board in the above cited matter:

Mr. Santa Anna made a motion approve Preliminary Plan Stage of a Major Land Development Project proposed by Blackstone Smithfield Corp. 1 Tupperware Drive Suite 2, North Smithfield Rhode Island 02896, for property located at North Smithfield Assessor's Plat 3 Lot 2 & 2A in a Manufacturing (M) and REA-120 zone. Said project as depicted on 13 sheet drawing set prepared by Marc N. Nyberg and Associates and Paul J. Gadoury, P.E. with a revision date of January 17, 2007, a 7 sheet drawing set showing the layout and details for the sanitary sewer, prepared by Vanasse Hangen Brustlin, Inc. (VHB) and a Traffic Impact and Access Study prepared by VHB is approved with the following conditions:

1. That the owner/developer will provide documentation on an annual basis to the Town Planner that a minimum of 10% of the project's units comply with the provisions of the Low and Moderate Income Housing Act, Chapter 45.53 and to the extent allowable by law, give preference to current residents of North Smithfield and Blackstone, MA.
2. Carrington Street will be used exclusively for emergency, pedestrian and bicycle access.
3. That the owner/developer will provide an annual report to the Town of North Smithfield detailing the inspection and maintenance of the stormwater management systems.
4. The owner/developer will widen Butler Street in accordance with specifications for public roads as determined by the Town of Blackstone, MA.
5. The existing sewer treatment facility will be abandoned in accordance with RIDEM's Consent Agreement File No.: OC&I/WP/05-01, AAD No.: 01-005/FWE as amended.
6. Sewers shall be installed in accordance with specifications of Town of Blackstone, MA as detailed on the approved plans prepared by Vanasse Hangen Brustlin, Inc.
7. Compliance with all conditions imposed by the Zoning Board of Review November 14, 2006.
8. That in the event that Blackstone, MA ever terminates water to this project, and should the developer come back to North Smithfield for water, all costs associated with that will be borne by the owner/developer to include service fees, tie-in fees, and normal rates. That the approval is made based on the representations of the developer that adequate potable water for the project is and will in the future be supplied to the project by a third party, the Town of Blackstone, MA, and that it is further understood by the developer that the Town of North Smithfield has no obligation, resource, or ability to provide any potable water to the project. It is also understood by the developer that the Town of North Smithfield shall not incur or be held liable for any expense or cost in bringing potable water service to the project even if an adequate source of potable water is found to be available whether currently or in the future.

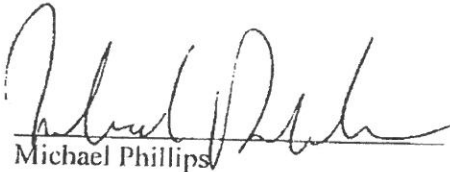
Dr. Benoit seconded the motion. Vote of the Board was as follows: AYE: Mr. Magill, Mr. Cardello, Mr. Santa Anna, Dr. Benoit, Mr. Czyzewicz. Motion passed 5-0.

Dr. Benoit made a motion that the Final Plan approval may be completed administratively by the Planning Department. Mr. Magill seconded the motion, with all in favor.

VI. Certification:

This is to certify that the above statement of *Decision* reflects the action of the North Smithfield Planning Board at their regularly scheduled meeting of Thursday, February 1, 2007, a quorum being present throughout, in accordance with the *Town of North Smithfield, Rhode Island, Land Development & Subdivision Regulations of December 31, 1995*. This is a true and accurate recording of such action and is intended to be a part of the official record of the North Smithfield Planning Board.

Certified:



Michael Phillips
Administrative Officer

Date:

RECORDED IN NORTHSMITHFIELD RI Feb 23, 2007
AT 09:52:47A ATTEST DEBRA A TODD
Town Clerk

NOTICE OF ZONING BOARD OF REVIEW DECISION

IN THE MATTER OF

OWNER

Blackstone Smithfield Corporation

RECEIVED FOR RECORD
NORTH SMITHFIELD R.I.

APPLICANT

Same

Oct 22, 2007 at 08:08:42A

PROPERTY ADDRESS

One Tupperware Drive, North Smithfield, RI

BOOK 408 PAGE 34
DOC #: 00008848

ASSESSOR'S ID

Plat 3, Lots 2 & 2A

On November 14, 2006, the Zoning Board of Review of the Town of North Smithfield granted relief from the Zoning Ordinance to the above-captioned property that affects the real estate described herein and which may contain stipulations affecting the use of the property. Reference is hereby made to the decision of the Board that recorded in Zoning Board Minutes Book 6 at Page 223

ZONING BOARD OF REVIEW OF THE TOWN OF NORTH SMITHFIELD

Angela D. Pugliese
Angela D. Pugliese, Clerk

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In North Smithfield on the 22 day of October 2007, before me personally appeared Angela D. Pugliese, Clerk of the North Smithfield Zoning Board of Review, known to me and known by me to be the person who executed the foregoing instrument, and acknowledged the same by her signature to be her free act and deed and the free act and deed of the North Smithfield Zoning Board of Review.

Notary Public

Constance Glicks

Expiration Date:

6-25-09

RECORDED IN NORTHSMITHFIELD RI Oct 22, 2007
AT 08:08:42A ATTEST DEBRA A TODD
Town Clerk

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

TOWN OF NORTH SMITHFIELD

ZONING BOARD OF REVIEW

November 14, 2006
Kendall Dean School
North Smithfield, RI

DECISION RE:

Application of Blackstone Smithfield Corporation, seeking to commence a Major Land Development Project. This will require the granting of a Special Use Permit per section 5.4.12 Land Development or Planned Development of the current Zoning Ordinance. Location: One Tupperware Drive, North Smithfield, Plat 3, Lots 2 & 2A.

BEFORE:

Chairwoman Emilie Joyal
Stephen Kearns
Vincent Marcantonio
Linda Vario
William Juh

ADMINISTRATIVE RECORD

Hearing notice under the requirements of the North Smithfield Zoning Ordinance included the following:

1. Publication in the Providence Journal on October 23 and 30, 2006.
2. Posting of the hearing notice at Town Hall, the Municipal Annex, and Kendall Dean School.
3. Notification to parties of interest (including the owner and applicant) by certified mail on October 25, 2006.

PROJECT DESCRIPTION

The applicant is seeking to commence a Major Land Development Project. This will require the granting of a Special Use Permit per section 5.4.12 Land Development or Planned Development of the current Zoning Ordinance. Location: One Tupperware Drive, North Smithfield, Plat 3, Lots 2 & 2A.

ZONING BOARD VOTE

The Chair stated: In the petition Blackstone-Smithfield Corporation, located on plat 3, lots 2 and 2A, One Tupperware Drive, North Smithfield, requesting a special use permit under Section 5.4.12, sub-section 1 of the North Smithfield Zoning Ordinance for a project known as High Rocks Condominiums, I find the following findings of fact:

- 1) The subject property is located within the Manufacturing district, which district permits a mixed use land development project provided a special use permit, under section 5.4.12 of the Zoning Ordinance, is granted.
- 2) Mr. Armen Harootian, Vice President of Blackstone-Smithfield Corp., testified that it seeks to create a mixed-use development for commercial, warehouse and residential usage.
- 3) The site of the proposed project is currently connected to the Town of Blackstone's sewer system. There are also utilities available to the site.
- 4) Mr. Harootian testified that the applicant proposes to build 95 one-bedroom and 25 two-bedroom condominiums, which will be located in the renovated mill buildings. There will be two parking spaces per unit for a total of 240 off street parking spaces.
- 5) Mr. Harootian testified that the proposed project is located on approx. 35 acres of land and is consistent with the Town of North Smithfield's Comprehensive Plan and that required screening and buffering will be provided.
- 6) Petitioner's Exhibit #P2 is a Master Plan Decision from the North Smithfield Planning Board dated October 12, 2006. Within this decision, the Planning Board voted unanimously, on October 5, 2006, to approve the Master Plan Stage of a Major Land Development Project proposed by Blackstone-Smithfield Corp. and unanimously voted to send a favorable recommendation to the Zoning Board. Mr. Harootian testified that the project would comply with the affordable housing mandates stated within the Town's Comprehensive Plan.
- 7) Mr. Harootian testified that the signage will conform to the requirements set forth within the Zoning Ordinance and all rubbish storage will be in a contained area. He also testified that no light would spill off the site and onto neighboring properties.

- 8) Mr. Harootian testified that this project is compatible with the adjacent properties.
- 9) Mr. Robert Clinton, who performed the traffic impact study, testified that sufficient ingress and egress is available via Butler Street, which will be improved to include sidewalks on both sides and widened to 30 feet. Adequate access for fire apparatus has been taken into consideration and made a part of this proposal.
- 10) Mr. Clinton also testified that the existing roadways will continue to operate efficiently, upon completion of this project, with no adverse effect.

Based upon these findings of fact, I move to approve the applicant's request for a special use permit with the following stipulations:

- 1) Prior to final approval by the Planning Board, the applicant shall submit to the Planning Board a photometric plan which will indicate that no light will spill off the site onto neighboring properties and there will be no glare from the parking lot and exterior lights on the site which would flow into any of the residential units to be constructed on the site or neighboring properties.
- 2) No industrial and/or commercial uses shall be introduced to the manufacturing portion of the building as depicted on the plans, which would cause any noxious odors, noise or dust to create a nuisance or interference with the quiet enjoyment of the residential units to be constructed on the site.
- 3) Hours of operation for manufacturing or commercial use are limited to 7 am to 10 pm, Sunday through Saturday.

Ms. Vario seconded the motion. Roll call vote was as follows AYE: Ms. Joyal, Ms. Vario, Mr. Kearns, Mr. Marcantonio, Mr. Jühr. The special use permit granted.

NORTH SMITHFIELD ZONING BOARD OF REVIEW BY:
Angela Pugliese, Clerk

**STATE OF RHODE ISLAND
THE TOWN OF NORTH SMITHFIELD**

**AN ORDINANCE TO AMEND
SEC. 64 OF THE CODE OF ORDINANCES IN CHAPTER 10, ARTICLE III**

It is Ordained by the Town Council of the Town of North Smithfield, Rhode Island as follows:

Sec. 10-64 of the North Smithfield Code of Ordinances in Chapter 10, Article III entitled **“MUNICIPAL SUBSIDY PROGRAM FOR LOW AND MODERATE INCOME HOUSING”** is hereby amended as follows:

Sec. 10-64. Designation of units.

The developer shall designate a minimum of 20 percent of the total number of units in the land development project with the exception of the Slatersville Mill and High Rocks Condominium projects. This 20 percent can be a combination of low and moderate income housing. A minimum of ten percent of the total number 10-14 of units in the Slatersville Mill must be affordable; 80 percent AMI or lower. A minimum of three of the total number of 133 existing units in High Rocks Condominium shall be affordable: 120 percent of AMI or lower in the case of dwelling units for sale, and 80 percent of AMI or lower in the case of dwelling units for rent. Any future development of the High Rocks Condominium shall comply with this section and designate a minimum of 20 percent of the total numbers of units as low and moderate income housing. This article applies to all subdivision activity and substantial rehabilitations and adaptive reuse that result in six or more units.
(Ord. of 3-3-08, § 4) (Ord. of 8-4-2021)

