

**Policy Consideration:** **Historic and Cultural Resource Protection Requirements**  
**Status:** **For Consideration by the Highlands Council at**  
**September 14, 2006 Work session**  
**Date:** **September 12, 2006**

## **I. STAFF POLICY RECOMMENDATIONS**

1) **Historic and Cultural Resources** will be included in the Regional Master Plan (RMP) to protect the historic resources of the Highlands Region and to protect and maintain the essential character of the Highlands. An inventory of **Historic and Cultural Resources** shall be established and maintained.

Rationale: The Highlands Act includes specific goals to preserve historic sites and historic resources in the Highlands Region. Sections 10.b.(4) and 10.c.(4). Section 11 of the Act requires a Resource Assessment in order to evaluate the “scenic, aesthetic, cultural, historic, open space, farmland, and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources.” Section 11.a.(1)(b). To implement these goals and requirements, the Highlands Council should establish and maintain an inventory of **Historic and Cultural Resources** for the Highlands Region. Toward this end the State Historic Preservation Office (SHPO) has undertaken a statewide comprehensive inventory, beginning with the Highlands Region. This inventory includes resources currently known by the State and expected to meet national and State register criteria. The Highlands Council inventory would utilize this baseline inventory and would be augmented to include additional historic and cultural resources.

The historic and cultural resources of the Highlands contribute greatly to the overall character of the Highlands themselves. It is their history, both physical and cultural, that has formed the basis of today’s Highlands. By protecting our cultural and historic resources, we also help protect the essential character of the Highlands. Historic and cultural resources exist throughout the Highlands and their protection and stewardship should be managed consistently throughout the region. In order accomplish these protection goals, we must have an understanding of what these resources are and where they are located. Much of this information can be drawn from local knowledge and local history.

2) Establish a **Historic and Cultural Resources** nomination process for the Highlands Region that permits the identification and delineation of historic and cultural resources.

Rationale: In order to better address the concerns associated with historic and cultural resources, we need to have a better understanding of these resources. We need to know what they are comprised of and where they are located. The adoption of a historic and cultural resource nomination process for the Highlands Region allows for the development of a consistent and regionally supported program. A nomination process for stakeholder input and nomination, in addition to county and municipal inventories, would address gaps in information and would aid in developing a comprehensive list of historic and cultural resources.

3) Encourage the establishment of a local historic preservation commission, or similar functioning entity. The local government entity would be charged with reviewing all development and redevelopment proposals as they relate to the historic and cultural resources of the town and its surroundings.

Rationale: Historic and cultural resources can contribute significantly to other development and redevelopment proposals within Highlands municipalities. However, development and redevelopment decisions made without the benefit of local historic and cultural information may have unintended and unforeseen impacts. An early review by a historic preservation entity can help anticipate these impacts and provide insight to help alleviate negative effects and bolster positive contributions.

Historic and cultural resources can exist alongside and in concert with many other land uses. Historic buildings are often valuable because of their design and representation of a particular period in history. Their historic characteristics can often be preserved at the same time as the structures are re-used for current day activities. It is important to understand that historic and cultural preservation can be achieved in many different ways and most of these resources are not slated to be museums. It is equally important to understand that historic and cultural resources are just as irreplaceable as some of our natural resources and therefore deserve substantial protection efforts. Compatible uses should be sought that do not destroy or compromise the value and integrity of the historic and cultural resources.

Municipalities should establish guidelines to provide for the protection and stewardship of local historic and cultural resources and ensure their inclusion early in the planning process for any new development or redevelopment within the Highlands. The establishment of a Historic Preservation Commission or other similar local body, charged with reviewing all proposals for their impact on historic and cultural resources, would serve this function.

4) The following Resource Protection Standards are recommended for the RMP in furtherance of the goals and requirements of the Highlands Act to protect and enhance Highlands resources, including:

- Require inclusion of Historic and Cultural Resource protection standards within municipal zoning and land use ordinances including identification of a historic district(s), historic district review standards, site plan and subdivision review criteria, and other techniques for advancing the historic and cultural resources of the municipality.
- Address the issue of teardowns. Consider development regulations to discourage the practice of tearing down existing, good quality structures to replace with larger, often architecturally inconsistent new buildings.
- Encourage sensitive adaptive re-use of historic structures as a means to protect them from demolition and to give them an economic role in the present.
- Consider historic transportation structures such as bridges and signs in reviewing transportation improvement projects.
- Refer to the Secretary of the Interior's Standards for the Treatment of Historic Properties as the guideline for municipal historic preservation initiatives.

Rationale: Resource Protection Standards provide the ability to protect the historic and cultural resources in the Highlands Region. The Highlands Act requires a Resource Assessment to evaluate historic resources and determine the "overall policies required to maintain and enhance such resources." Section 11.a.(1)(b). The Act also requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12.

Historic and cultural resources exist throughout the Highlands and their protection and stewardship should be managed consistently throughout the region. Historic structures are often located in early settlement areas which have developed into the towns, villages and centers of New Jersey. Their protection and stewardship can and should be advanced as those areas continue to grow and develop.

Just as the natural resources of the Highlands need and deserve protection, so do our built resources. These historic and cultural resources are irreplaceable once they have been destroyed, but when preserved can contribute greatly to both the economic and recreational resources of the Highlands. The success of eco-tourism in the region will be served by wise utilization of the many cultural and historic resources throughout the Highlands.

In-fill development and new growth in and adjacent to cultural and historic resources should incorporate them as valuable elements of the overall plans. Similarly, historic and cultural resources may attract economic activity because of their quality and character. Economic development and historic and cultural preservation can be complementary to one another and this positive relationship should be advanced.

5) The following Pre-Conformance strategies are recommended in furtherance of the goals and requirements of the Highlands Act to ensure successful implementation of the RMP prior to the conformance period, including:

- Develop Historic and Cultural Resource nomination program protocols including identification criteria and map submission requirements.
- Establish RMP historic and cultural protection criteria for ordinances and design standards.
- Gather existing regional, county and municipal inventories of historic and cultural resources from Highlands municipalities, counties, and local historic preservation groups.

Rationale: RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Highlands Council and municipal and county stakeholders during the Plan Conformance process, as well as what initiatives will require longer term planning goals. Sections 11.a.(3), 14 and 15. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, county, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

6) The following Conformance strategies are recommended in furtherance of the goals and requirements of the Highlands Act to ensure successful implementation of the RMP during the conformance period, including:

- Develop a process for counties, municipalities, and stakeholders to nominate sites for Historic and Cultural Resource protection as part of the Plan Conformance process.
- Highlands Council Staff will assist constituent counties and municipalities by providing available information and sources for historic and cultural resource data. This may be done in a number of ways including having the local governing body select potential sites for inclusion based on their local knowledge and/or engaging the assistance of local residents and visitors in a resources questionnaire or survey.

- A Historic Preservation element shall be required as an integral component of the municipal master plan for all Highlands municipalities.

Rationale: RMP Implementation Strategies support the necessity to determine what activities, data, and programs will be required of both the Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. Sections 11.a.(3), 14 and 15. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, county, and local support from all levels of government and the support of the stakeholders of the Highlands Region. The Municipal Land Use Law (N.J.S.A.40:55D-28.b.) provides for the preparation of a Historic Preservation Plan element within the municipal master plan. This element is intended to indicate the location and significance of historic resources, identify standards for assessing their value, and analyze the impact of other elements of the master plan on these resources. The historic preservation plan element establishes the base from which to make future land use decisions related to the historic resources of the community.

7) The following 5-year Resource Protection and Planning Goals are recommended in furtherance of the goals and requirements of the Highlands Act to ensure continued refinement and development of the RMP, including:

- Continue the recognition of historic and cultural resource protection needs among public and private entities for resource protection strategies consistent with the RMP.
- Continuously incorporate historic and cultural resource data from State, county, regional, and municipal data base into the Highlands inventory.
- Develop indicators to serve as an assessment tool in meeting historic and cultural goals and policies.

Rationale: The Highlands Act requires the Highlands Council to periodically revise and update the RMP at least once every six years. Section 8.a. As we move forward, our data will continually be updated and indicators of success should be identified. Lessons will continue to be learned and these lessons will be applied with each iteration of the Regional Master Plan. RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, county, and local support from all levels of government and the support of the stakeholders of the Highlands Region. Sections 11.a.(3), 14 and 15.

8) The following Coordination and Consistency Considerations are recommended to promote active participation in the implementation of the RMP among state and federal agencies:

- Development of a region-wide historic and cultural inventory will provide a consistent data base for use by all Highlands municipalities and counties, as well as a resource and a reference for federal agencies, State agencies, and local landowners, as future land use decisions are considered.

- Coordinate with the Historic Preservation Trust to ensure a stable source of funding for preservation and stewardship of historic and cultural resources within the Highlands Region.
- Establish and implement a signage program in cooperation with the Department of Transportation and local government units to identify significant natural and historic resources and landmarks in the Highlands Region.
- Coordinate with NJDEP to ensure that Highlands Preservation Area Approvals require review and evaluation of historic resources.

Rationale: RMP Implementation Strategies support the necessity to determine what local, county, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the RMP. Sections 11.a.(4). The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

9) The following Local Participation Considerations are recommended to promote the understanding and support for the RMP resource protection goals at the local level:

- Assist municipal and county entities to gather historic and cultural resource information to update existing data sources or nominate new ones.
- Include tourism professionals for their opinions on potential sites of historic and cultural resource significance in the Highlands Region in support of eco-tourism initiatives.
- Develop a coordinated interpretive system for historic and cultural resources in the Highlands Region that may include elements such as signage, brochures, self-tour guides, etc.
- Provide for the development or redevelopment of Specially Planned Areas. Projects proposed within a Specially Planned Area will be subject to the following requirements:
  - Preparation of a historic survey of the Specially Planned Area and the surrounding area;
  - Adherence to historic and archeological guidelines established for the subject area; and
  - Demonstration that the minimal practicable degradation of historic and archeological properties had been achieved.

Rationale: RMP Implementation Strategies support the necessity to provide for the maximum feasible local government and public input into the Highlands Council's operations. Section 11.a.(3)(emphasis added). The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, county, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

The Specially Planned Areas are those areas considered to be “appropriate for redevelopment” as outlined in the Highlands Act. Section 11.a.(6)(h) The Act provides for the identification of redevelopment areas in order “to promote the economic well-being of the municipality, provided that the redevelopment conforms with the goals of the preservation and [the] Act.” Section 9.b.

## II. REQUIREMENTS OF THE HIGHLANDS ACT AND RMP GOALS RELATED TO HISTORIC AND CULTURAL RESOURCE PROTECTION REQUIREMENTS:

### Goals of the Highlands Act:

In accordance with Section 10 of the Highlands Act, the overarching goal of the Regional Master Plan “with respect to the entire Highlands Region shall be to protect and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act.” Section 10.a.

The Highlands Act establishes specific goals relating to protection of historic sites and historic resources. Those goals with respect to the Preservation Area shall be to:

- preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state, thereby ensuring the continuation of a Highlands environment which contains the unique and significant natural, scenic, and other resources representative of the Highlands Region. Section 10.b.(2).
- protect the natural, scenic, and other resources of the Highlands Region, including but not limited to contiguous forests, wetlands, vegetated stream corridors, steep slopes, and critical habitat for fauna and flora. Section 10.b.(3).
- preserve farmland and **historic sites and other historic resources**. Section 10.b.(4).
- promote compatible agricultural, horticultural, recreational and cultural uses and opportunities within the framework of protecting the Highlands environment. Section 10.b.(9).
- prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area. Section 10.b.(9).

In addition, the goals with relating to protection of historic sites and historic resources with respect to the Planning Area shall be to:

- preserve to the maximum extent possible any environmentally sensitive lands and other lands needed for recreation and conservation purposes. Section 10.c.(2).
- protect and maintain the essential character of the Highlands environment. Section 10.c.(3).
- preserve farmland and **historic sites and other historic resources**. Section 10.c.(4).

### Requirements of the Highlands Act:

#### *Resource Assessment*

The Highlands Act includes specific requirements relating to protection of historic resources requiring the development of a Resource Assessment for the Highlands Region which “(b) includes an assessment of scenic, aesthetic, cultural, **historic**, open space, farmland, and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources.” Section 11.a.(1)(b)(emphasis added).

#### *Smart Growth Component*

The Highlands Act also includes specific requirements relating to protection of historic resources requiring the development of a Smart Growth component that includes “an assessment, based upon the resource assessment prepared pursuant to paragraph (1) of subsection a. of this section, of opportunities for appropriate development, redevelopment, and

economic growth, and a transfer of development rights program . . . . In preparing this component, the council shall:

- (a) prepare a **land use capability map**;
- (b) identify **existing developed areas** capable of sustaining redevelopment activities and investment;
- (c) identify undeveloped areas in the planning area, which are not significantly constrained by environmental limitations such as steep slopes, wetlands, or dense forests, are not prime agricultural areas, and are located near or adjacent to existing development and infrastructure, that could be developed;
- (g) identify special critical environmental areas and other critical natural resource lands where development should be limited. Section 11.a.(6)(emphasis added).

*Preservation Area Assessment*

For the Preservation Area, Section 12 of the Highlands Act requires “a **land use capability map** and a comprehensive statement of policies for planning and managing the development and use of land in the preservation area, which shall be based upon, comply with, and implement the **environmental standards” adopted by NJDEP and the Resource Assessment prepared the Highlands Council** under Section 11. Section 12.(emphasis added).

Section 12 specifically requires implementation “that will ensure the continued, uniform, and consistent protection of the Highlands Region in accordance with the goals, purposes, policies, and provisions of this act, and shall include:

- a. a preservation zone element that identifies zones within the preservation area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights; and
- b. **minimum standards governing municipal and county master planning, development regulations, and other regulations concerning the development and use of land in the preservation area**, including, but not limited to, standards for minimum lot sizes and stream setbacks, construction on steep slopes, maximum appropriate population densities, and **regulated or prohibited uses** for specific portions of the preservation area. Section 12.(emphasis added).

*Preservation Area Requirements*

The NJDEP’s rules at N.J.A.C. 7:38-3.10 provides protection for historic or archaeological areas. Pursuant to N.J.A.C. 7:38-3.10(b), NJDEP rules states that no one may engage in regulated activities that would impact historic or archaeological properties without first conducting an intensive-level architectural survey. In accordance with N.J.A.C. 7:38-3.10(l), NJDEP shall not issue a permit in the Preservation Area if the regulated activity will result in more than the minimum practicable degradation or impact to a historical or archaeological area

This rule implements the Highlands Act’s protection requirements in the Preservation Area pursuant to Section 36.a(6) to ensure “minimal practicable degradation of unique or irreplaceable land types, historical or archaeological areas, and existing public scenic attributes at the site and within the surrounding area.”

#### *Local Participation Component*

A component to provide for the maximum feasible local government and public input into the council's operations, which shall include a framework for developing policies for the planning area in conjunction with those local government units in the planning area who choose to conform to the regional master plan. Section 11.a.(3).

#### *Coordination and Consistency Component*

A coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the regional master plan, and which details how land, water, and structures managed by governmental or nongovernmental entities in the public interest within the Highlands Region may be integrated into the regional master plan. Section 11.a.(4)..

### **III. TECHNICAL BASIS AND JUSTIFICATION FOR STAFF RECOMMENDATIONS**

“The Highlands is about our heritage. We are losing money by not capturing, retaining and promoting the character of the region. Historic resources leverage private investment. We need to create a Highlands tourism entity to attract funding, promote redevelopment, reduce loss of resources, and educate the public about the value of historic resources. We need to be more central in the planning process. Resources have value sustained over time. . . .” These are the words drafted in the vision statement supported by the Cultural, Historic and Scenic Resource Technical Advisory Committee and Eco-tourism and Recreation Technical Advisory Committee who came together during the Highlands Council’s Charrette in March 2006. Comprised of experts in the fields of historic, cultural and scenic resources and eco-tourism and recreation, these advisors participated for two days in an intensive work session to help the Highlands Council understand the importance and value of the resources that exist in the region.

The Highlands Act calls for the regional master plan within its resource assessment component to assess the “scenic, aesthetic, cultural, historic, open space, farmland, and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources.” Section 11.a.(1)(b). The policy proposals above are intended to meet that charge as relates to cultural and historic, and advance efforts toward maintenance and enhancement of those resources within the Highlands Region.

The Highlands Region has a total of 597 historic districts and individual resources that are known to the State Historic Preservation Office (SHPO). Of these sites, 242 (41%) are listed on the State and National Registers. Of the listed properties, 59 (24%) are historic districts that contain an undetermined number of individual sites. The Highlands Region also has 4 National Historic Landmarks and 56 archaeological sites. Several of these sites are regional resources, such as the Morris Canal, and traverse multiple counties and municipalities. Accordingly, there is a need for a comprehensive and regional approach for protection and stewardship of the historic and cultural resources of the Highlands.

### **IV. GLOSSARY**

This section defines the terms that are used to develop the approach and methods that informed the proposed policy actions for this RMP element. Topic specific glossaries will contribute to the general RMP glossary of terms.

**Historic and Archaeological Areas** - Those historic or archaeological properties that are listed or are eligible for listing on the New Jersey or National Register of Historic Places pursuant to N.J.A.C. 7:4-2.3. *N.J.A.C. 7:38-3.10(a)*

**National Historic Landmark (NHL)** – National Historic Landmark is a designation given by the National Park Service to a property of national significance. Properties designated NHLs are automatically listed in the National Register. *New Jersey Historic Preservation Office, [www.nj.gov/dep/hpo/1identify/identify.htm#njnrhp](http://www.nj.gov/dep/hpo/1identify/identify.htm#njnrhp)*

**National Register of Historic Places** - The national list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering or culture maintained by the Secretary of the United States Department of the Interior under authority of the National Historic Preservation Act, as amended (16 U.S.C. §§ 470 et seq.) *N.J.A.C. 5:101-1.3 and N.J.A.C. 7:4-1.3*

**New Jersey Register of Historic Places** – Areas, sites, structures and objects significant in American history, architecture, archaeology and culture which the Commissioner of the Department of Environmental Protection is authorized to maintain and expand under the New Jersey Register of Historic Places Act, N.J.S.A. 13:1B-15.128 et seq. *N.J.A.C. 5:101-1.3 and N.J.A.C. 7:4-1.3*

**Specially Planned Areas** – Specially Planned Areas are previously developed lands that contain characteristics including infill and adaptive reuse and, due to past development patterns, have limited resource constraints. Within the Preservation Area a Specially Planned Area is limited to an area or site that contains at least 70% impervious area or is a Brownfield site determined to be a Specially Planned Area by the Highlands Council and NJDEP.

**Teardowns** – The practice of purchasing an existing home on a lot, demolishing it, and building a new, larger home in its place, often out of character with the original neighborhood. *National Trust for Historic Preservation, [www.nationaltrust.org/teardowns/](http://www.nationaltrust.org/teardowns/)*

**The Secretary of the Interior's Standards for the Treatment of Historic Properties** – The Standards offer basic historic preservation guidance for identifying, retaining, and preserving the form and details of historic properties. The preservation philosophy is implemented through a hierarchy that emphasizes maintaining and protecting first, repairing second, and replacing only when maintenance or repairs are not feasible or cost-effective. The Standards also include guidance for replicating or reconstructing missing elements and adding to or altering historic properties. The Standards are available from the National Park Service website along with related guidance and illustrations. *National Park Service, Department of the Interior, [www.cr.nps.gov/local-law/arch\\_stnds\\_0.htm](http://www.cr.nps.gov/local-law/arch_stnds_0.htm)*