

HISTORIC PRESRVATION COMMISSION

A G E N D A

March 12, 2024 – 5:30 p.m.

Council Auditorium, City Hall

(103 North Perry Street)

HISTORIC PRESERVATION COMMISSION MEMBERS

Dr. Richard Bailey, Chair

Ms. Carole King, Vice Chair

Mr. Rob Hessee

Ms. Camilla Debardelaben

Mr. James Long

Mr. Keelan Adams

Mr. Mark Hall

LAND USE DIVISION

Warren Adams

Executive Secretary



II. Historic Neighborhood spotlight: Old Cloverdale

Old Cloverdale Historic District

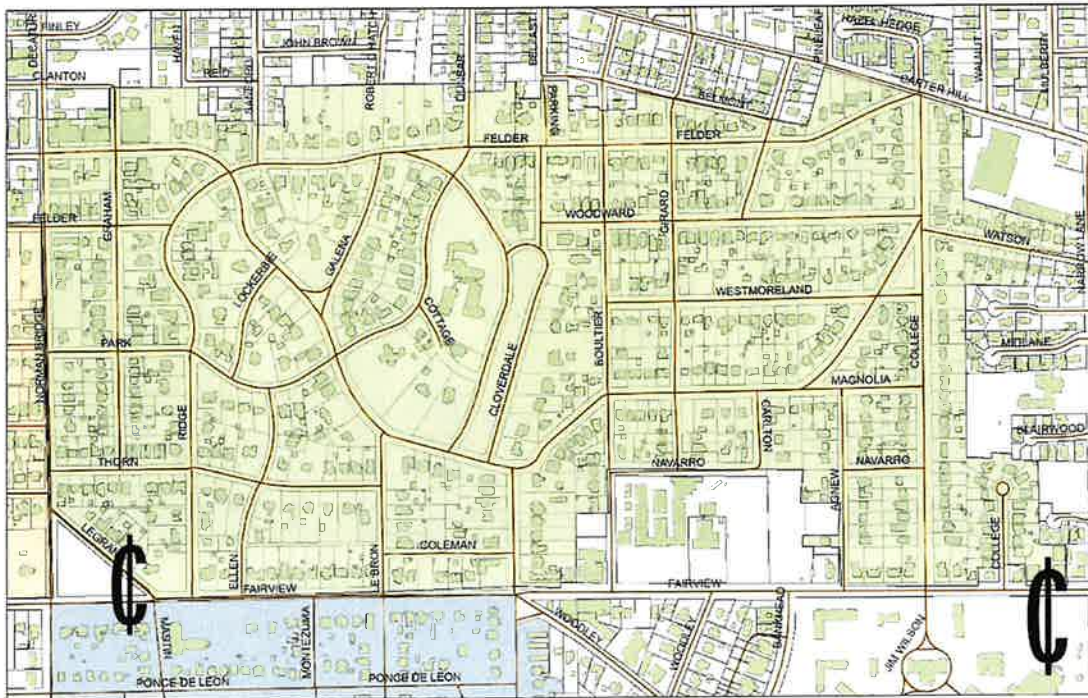


Figure 1: Old Cloverdale Historic District boundary map.

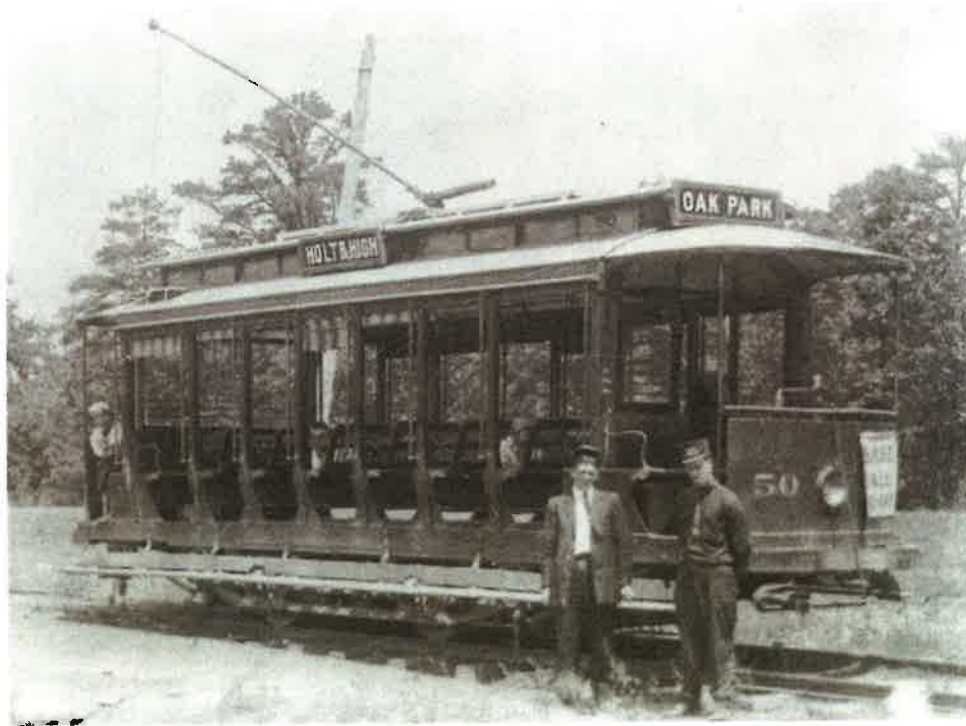


Figure 2: Electric streetcar, which connected Cloverdale with Montgomery in the late nineteenth and early twentieth centuries.



Figure 5: Current photo of First United Methodist Church, as depicted in postcard, 02/27/2024.



Figure 6: East elevations of First United Methodist Church, from East Cloverdale Park, 02/27/2024.



Figure 9: Scott & Zelda Fitzgerald Museum. The residence was built 1910, according to Montgomery County tax assessor, and the Fitzgeralds lived here between 1931-1932 (<https://www.thefitzgeraldmuseum.org/>). Photo courtesy of Old Cloverdale Association: <https://oldcloverdale.org/photo-gallery/>.



Figure 10: Stonehenge art, custom framing, and lighting gallery at 401 and 417 Cloverdale Road. Photo courtesy of Old Cloverdale Association: <https://oldcloverdale.org/photo-gallery/>.



Figure 13: Cloverdale Playhouse, 02/27/2024.



Figure 14: English-Norman Cottage style residence at 2512 College Street, 02/27/2024.



Figure 17: Italian Renaissance-Mediterranean style residence at 434 Felder Avenue, built in 1925 (Tax assessor). Photo courtesy of One Home: <http://tinyurl.com/bd2cc5ej>.



Figure 18: Italian Renaissance-Mediterranean style residence at 434 Felder Avenue. Photo courtesy of One Home: <http://tinyurl.com/bd2cc5ej>.



Figure 21: 2-story Georgian Revival style residence built in 1919 with classical details, 02/27/2024.



Figure 22: Community Garden at 1128 Woodward Avenue. Photo courtesy of Old Cloverdale Association: <https://oldcloverdale.org/photo-gallery/>.

III. Discussion on HB 128, which would exempt places of worship from historic districts throughout Alabama, unless such places of worship pursue an opt-in process that is outlined in the bill. Text of the proposed bill is included below, as are talking points drafted by Landmarks Foundation.

This bill defines places of worship as any religious institution and buildings owned by the institution regardless of use. It exempts all places of worship from local historic designation, but allows for them to opt in to designation as long as it's recorded with the deed of the property through a probate judge.

The bill is broad in its definition, redundant in its purpose, and presents a series of unintended consequences that will severely alter the character and landscapes of historic districts across the state. It clearly states the state does not have a compelling interest to regulate places of worship through historic designation, citing the **Religious Land Use and Institutionalized Persons Act** without context and making the argument that local historic designation on the whole is inherently discriminatory toward religious practice. However, it is arguable the state does have a compelling interest related to preserving economic opportunity for communities across the state.

This bill will erode historic districts to the point of losing their integrity which is essential to the vitality of local economies. Eligibility for the National Register is a key feature of many state and federal ED programs, including the Federal Historic Tax Credit and the Alabama Historic Rehabilitation Tax Credit. Removing large and historic properties, like places of worship, from local districts jeopardizes the eligibility of the districts for the National Register. If a place is removed from the National Register, it loses eligibility for these economic development programs. Many historic communities in Alabama have benefited from this process, seeing revitalization for the first time in decades. Local designation primarily protects the integrity of these districts, ensuring a district is cohesive and maintains its eligibility for meaningful local development. This process is essential for many individual property owners to see the highest and best use from their investments in their community.

This bill is redundant:

A public process for designating historic districts is already in place across the state and requires written notice to property owners, public meetings to be held, and a city council vote to create a local district.

This bill places undue burden on places of worship who are currently eligible for grant funding due to their local designation from the Alabama Historical Commission. These places will be required to repeat their local designation process.

The Unintended Consequences:

Places of worship are major institutions in a majority of locally designated historic districts across Alabama. They are integral parts of our communities and oftentimes owners of significant portions of property in historic districts. Exempting them from designation removes them from an essential community building process that is meant to protect the unique and inherent character of a place, enhance property values, and improve local economy. This is apparent across our state. Exempting a large landowner from this process will diminish the positive outcomes from local designation when inevitably, building stock is lost to demolition. Places of worship are essential to the value of our communities. However, this bill reduces that value by putting their short term desires above the long term prosperity of the community.

There have been countless stories of property owners frustrated with historic designation. This bill gives those types of owners a shortcut to removing property from a district without working through the community process. Owners can simply declare themselves a place of worship, without proving they are in fact a place of worship and exempt themselves from historic districts. This begins a series of follies with the potential to lock municipalities in costly litigation, regardless of the outcome.

There are other consequences out there we have yet to discover, but the potential damage created by this legislation has wide ranging effects on local economies and the character of towns, neighborhoods, and downtowns. This bill sets our state back and jeopardizes the progress made by many communities who have benefited from economic revitalization associated with their historic places.

HB128 INTRODUCED



1 HB128
2 R6UBYNN-1
3 By Representative Gidley
4 RFD: Urban and Rural Development
5 First Read: 06-Feb-24



HB128 INTRODUCED

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A BILL

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TO BE ENTITLED

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AN ACT

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Relating to historic preservation; to amend Section

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11-68-15, Code of Alabama 1975, and to add Section 11-68-16 to

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the Code of Alabama 1975; to prohibit a municipal historic

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preservation commission from designating a place of worship as

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a historic property or historic district; to define the term

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"place of worship"; to authorize a place of worship to agree

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to be designated as a historic property or district; to

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provide for retroactivity; and to make nonsubstantive,

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technical revisions to update the existing code language to

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current style.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. Section 11-68-15, Code of Alabama 1975, is

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amended to read as follows:

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"§11-68-15

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(a) (1) ~~The provisions of this~~ This chapter ~~shall~~ does

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not apply to ~~a~~ any highway, road, street, bridge, or utility

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structure or facility, ~~nor to any highway, road, street,~~

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~~bridge, or utility structure or facility to be constructed or~~

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~~improved, including any property, building or other structure~~

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~~or facility to be changed, moved, demolished, acquired, or~~

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~~utilized in connection therewith,~~ lying or running within any



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85 parts thereof, and change, move, or demolish any building or
86 other structure in accordance with the applicable provisions,
87 requirements, and ~~procedure~~ procedures provided for under ~~such~~
88 that act, including the requirements and procedure as
89 applicable of the Advisory Council on Historic Preservation,
90 ~~Section 36, Code of Federal Regulations 800~~ 36 C.F.R. Part
91 800, (16 USCA 470i), and in accordance with the provisions,
92 requirements, and ~~procedure~~ procedures as applicable under
93 ~~Section 4(f) of the U.S. Department of Transportation Act of~~
94 ~~1966, as amended, 49 USCA 1653(f)~~ 49 U.S.C. § 1653(f), and
95 under ~~23 USCA 138~~ 23 U.S.C. § 138, or any superseding
96 statutes.

97 (2) In the event the foregoing ~~National Historic~~
98 ~~Preservation Act or Section 4(f)~~ federal laws and regulations
99 are not applicable to the property, building, or other
100 structure, they shall be exempt from ~~the provisions of~~ this
101 chapter."

102 Section 2. Section 11-68-16 is added to the Code of
103 Alabama 1975, to read as follows:

104 §11-68-16

105 (a) The Legislature finds and declares that this state
106 does not have a compelling interest to regulate places of
107 worship for the purposes of historical preservation or
108 designation, as would be required to burden religious exercise
109 under each of the following:

110 (1) The Alabama Religious Freedom Amendment, Section
111 3.01 of the Constitution of Alabama of 2022.

112 (2) The Free Exercise Clause of the First Amendment of



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141 a historic property or historic district until after the place
142 of worship submits a recording to the judge of probate
143 pursuant to paragraph a.

144 (d) (1) This section shall apply retroactively to any
145 designation of a place of worship as a historic property or
146 historic district made by any municipality prior to June 1,
147 2024.

148 (2) Any designation of a place of worship as a historic
149 property or historic district made by any municipality prior
150 to June 1, 2024, is void, unless the governing body of the
151 place of worship records a statement with the judge of probate
152 of the county where the place of worship is located that does
153 all of the following:

- 154 a. Ratifies and confirms the designation.
- 155 b. Specifically references this section of the law.
- 156 c. Affirmatively states that the place of worship
157 desires to be subject to the historic property designation or
158 inclusion within a historic district.
- 159 d. Indicates whether the ratification is retroactive,
160 prospective, or both.

161 (e) This section applies in all municipalities and may
162 not be altered or amended by local law. Any existing local law
163 or portion thereof in conflict with this section is
164 specifically repealed to the extent of the conflict, and any
165 remaining portions of the local law not in conflict shall
166 remain in full force and effect.

167 Section 3. This act shall become effective on June 1,
168 2024.

IV. Section 1 (Forward and Introduction) of draft revised guidelines. Please review prior to the meeting and come ready to provide any comments/revisions that you may have. This is just the text, so please review content, only, and not formatting. The final version will have photos, captions, etc. to make it more readable. Next month, we'll move to Section 2—Site and Setting.

Draft Design Guidelines for Montgomery's Historic Districts:

Foreword

“If what has been said on the subject...is sufficient to awaken an intelligent interest in the mind of the reader, the purpose of the authors will have been fulfilled.”

E.K. Rossiter and F.A. Wright

Authentic Color Schemes for Victorian Houses: Comstock's Modern House Painting 1883.

The needs of an older house, because of their design and construction, differ from newer houses. Built before the widespread use of central heating and air systems, older houses were designed to breathe in the southern climate. Common elements include construction on brick pier foundation with an air space underneath (stand in front of a vent in the curtain wall on a hot day, you'll feel a cool breeze), high ceilings, operable attic windows and vents to draw hot air out, double hung windows where top sashes could be dropped to draw heat out, and no insulation in the walls or attics. Houses were efficient in how they operated without the central systems we have today. Neighborhood settings also contribute to this natural heating and cooling system, particularly through the planting of deciduous trees that provide shade in summer and allow sunlight through in winter. Over time, some of these houses have experienced sealing up with vinyl siding, windows painted shut or replaced, and foundations enclosed.

The design guidelines for Montgomery's Historic Districts are intended to meet several needs. For property owners, residents, and contractors, the guidelines provide primary guidance in planning projects in ways that are sympathetic to older buildings and the special character of each of Montgomery's historic districts. For Architectural Review Board (ARB) members and Land Use staff, the guidelines offer a basis for evaluating proposed changes. The guidelines are not a comprehensive restoration or rehabilitation manual, nor do they provide a method for preparing individual applications, but they do provide a series of best practices as you approach a project.

Each application will be unique and have its own set of considerations based on location, setting, and scope of project. Some changes may be appropriate in one district because of its overall character, but not in others. In reviewing applications, the ARB and staff consider the property itself, the street context within which it is located, and the special character of the entire historic district. As such, the design guidelines achieve several goals: to provide a series of best practices for different types of projects; to help applicants understand the ARB review process; to provide applicants, the ARB, and staff, a basis from which to reach decisions and an assurance that consistent procedures and standards will be adhered to.

1. Introduction

The historic districts and individual buildings addressed in these guidelines are locally designated. Local historic designation means an individual structure or neighborhood has been recognized by the City of Montgomery as being architecturally or historically significant to the community. These resources are characteristic of architectural styles prevalent during a certain period of the City's history or are important within the history and social heritage of Montgomery. Designation also helps protect the structure or area

2. Advisory opinions are issued by the ARB upon the request of the property owner but are not binding and do not give the applicant approval to proceed with new construction or demolition.
3. A Certificate of Appropriateness (COA) shall be issued for a period of 18 months and is renewable; however, COAs are void if work has not commenced within one year from the date of issuance.
4. If you need assistance in preparing your application, or if you have any questions about the process, please call the Land Use Division at (334) 625-2722 between 8:00 AM and 4:00 PM, Monday through Friday.
5. A BUILDING PERMIT must be obtained in the Building Department, 25 Washington Avenue, 1st Floor before actual construction or repair can begin. Painting of exterior surfaces does not require a BUILDING PERMIT but does require ARB approval unless repainting an existing color or the new color is on the pre-approved palette.

Design Review Process/Procedures

Historic districts are not created to prevent changes. Land Use staff and the ARB help property owners in shaping changes while meeting the requirements of the Code. Anyone wishing to alter, renovate or demolish a locally designated historic building must obtain approval (Certificate of Appropriateness) from the Montgomery Architectural Review Board prior to commencing work. Often, routine maintenance such as minor repairs, painting, and re-roofing may be approved through an expedited procedure that does not require ARB approval.

Routine maintenance does not require approval unless it constitutes a change in paint color, material, or general appearance. For example, if there is a wooden picket fence in the front yard that requires a section to be replaced, replacing that section with a matching wooden picket fence, aligned, and painted to match the existing fence does not require ARB approval. Removal of the entire fence and replacing it with an iron fence is a material change and requires approval.

Minor work and maintenance include:

1. Repairs, ordinary maintenance, and painting that do not change the character or style of the house, building or structure to be rehabilitated. The rule on painting shall include painting structures where the paint being used is included in an "Historic Color Palette" adopted by the ARB. Property owners and tenants are allowed to repaint their buildings in identical colors, including off-palette colors, without an application to the ARB.
2. Reroofing of any building, house or structure using materials that will not change the appearance or style of the architecture such as: black, grey, or weather blend (or similar color), three-tab shingles.
3. Repair or replacement of fencing and walls that are in harmony with the character and architectural style of the structure and historic district in which it is located; or the repair of fencing and walls that will not be visible from any street.
4. Repair of an accessory structure (I.e., carport, garage, or storage building) located in the rear yard that is not visible from the street and is in harmony with the character and architectural style of the main structure and the historic district.
5. Minor landscaping and site alteration, including sodding, pruning, planting of shrubbery around existing structures, construction of retaining walls and terraces no more than 12 inches in height, and small (12 inches or less in diameter at the base) tree removal.

For all other work, an application to appear before the ARB needs to be made. The nature of the project will determine what type of information must be submitted with the application. For all submissions, current photographs must be included.

Demolition Permits

1. Photograph of the building to be demolished
2. Statement of purpose of the demolition, with reference to the future land use of the site. It is the policy of the ARB to require the submission of plans for any building or other project that will be constructed on the site before the issuance of a demolition permit. Site plans should include locations of existing trees. The applicant shall present evidence on the present condition of the building and the cost of rehabilitating and maintaining it. The applicant shall also provide proof of the financial ability to complete the demolition, disposal, and reconstruction project. If the ARB determines the building to be of architectural or historic value, it may delay demolition for up to 6 months while alternatives such as adaptive reuse, resale, or moving the building are explored.
3. Requests for the relocation of a designated house, even if the relocation is in the same district, shall be subject to the same criteria as if the house were to be demolished.

The following permits are also required to proceed with a demolition:

1. A health clearance must be obtained from the Environmental Division, Montgomery County Health Department, 3060 Mobile Highway, phone (334) 293-6400.
2. A clearance must also be obtained from the Water Works Board, 2000 Interstate Park Drive, phone (334) 206-1600.
3. It is necessary to post a **\$200.00** bond with the Finance Department, City Hall for residential and commercial structure demolition. Small accessory buildings and residential garages do not require this deposit.
4. Next, a Demolition Permit is required. This can be obtained from the Permit Section of the Building Department, 25 Washington Avenue, 1st Floor. This permit can only be issued to a licensed contractor or the owner. If an agent comes in for the licensed contractor, a written request is required.
5. Demolition must be completed within thirty days from the date of permit.

Appeals and Compliance

The decisions of the ARB are binding and final. Anyone whose request for a Certificate of Appropriateness has been denied by the Board may appeal the denial to the Montgomery County Circuit Court. An appeal must be filed **within thirty days after the receipt of written notice of the Board's decision**. Violations of the ordinance, whether through non-compliance with the review process or acting directly against the Board's decision, are subject to fines set forth in Section 1-6 of the Code of the City of Montgomery. The City may file a suit on behalf of the ARB or HPC to prevent changes to a historic building's exterior, to prevent any illegal act or conduct, or to recover any damages which may have been caused by the violation of the ordinance.

The Secretary of the Interior's (SOI) Standards for Rehabilitation

The Historic Ordinance (28-2004, Part IV, Section 1-h) requires the Board to adopt design standards that are consistent with the Secretary of the Interior's Standards for Rehabilitation and that consider local characteristics and goals. Rehabilitation assumes that some repair or alteration of a historic building may be needed to provide for an efficient contemporary use; however, repairs and alterations must not damage or destroy historic materials, finishes, or features that are important in defining a building's historic character. Maintain first, repair second, or, if necessary, replace in kind.

The following standards provide the foundation for the guidelines:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.