

December 12, 2003



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Executive Director

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Mr. Dewayne Morris
P.O. Box 11412
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Re: AHC 04-0177

Dear Mr. Morris:

Highlighting some sections of the regulations I sent with my last letter:

Section 800.1 (a), purposes if the Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties.

I am assuming that some federal agency (presumably the FDIC) is asking for a clearance letter from the State Historic Preservation Office as part of an application process for your branch bank. This means that they consider the establishment of the bank an undertaking under Section 106. In asking for this clearance letter, they are asking you to consult with our office. The goal of this consultation is to "Identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties." Section 800.1 (c).

Reading further through the regulations, Section 800.3 calls out the level of identification efforts and the potential to cause effects, the application of the Secretary's Standards and Guidelines for Identification, and the evaluation of significance. As I pointed out in my letter, you did coordinate with local governments and neighborhood groups and consider some alternatives to demolition, although not at the level that we would have required through consultation. You also had no formal examination of the property to determine eligibility. It is the threshold of **eligibility** for, not **listing** on, the National Register of Historic Places (NRHP) that applies to Section 106(Section 800.4(c) (2)).

USCA Title 16, 470a (b) (6) quoted in your letter of December 10 apply to the method that persons may object to listing to the NRHP. The Alabama Historical Commission is not proposing to list the properties in question on the National Register, but for the purposes of Section 106 we made the determination that the properties were eligible. We fully respect your desire not to list the properties in question, but since you desire to establish a branch bank on the property, which is a federal undertaking, you have