

Historic Preservation Commission

Staff Report

Meeting Date: June 10, 2026

Case #: HPC-32-26

Site Address: 1501, 1505 & 1507 Paul W. Bryant Dr
Parcel IDs: 31-06-23-3-005-019.000, 31-06-23-3-005-020.000, & 31-06-23-3-005-021.000
Applicant: Donald Eugene Bailey
Owner: Donald Eugene Bailey

Proposed Work: The Tuscaloosa Historic Preservation Commission will consider a petition for the removal of 1501, 1505, and 1507 Paul W. Bryant Drive from the Myrtlewood Drive Historic District and will make a recommendation to the Tuscaloosa City Council.

Current Zoning: SFR-3H

Historic District: Myrtlewood Drive Historic District
Architectural Style: English Cottage
Year Built: 1930
Contributing: Yes
Historic Survey: Myrtlewood Drive Historic Survey

Resource 1. 1501 10th Street. 1930. Arch motif is interestingly repeated in shaping of door, chimney, porch, dormer window, and attic vent. This is balanced by the pitch roof of porch gable and dormers. The total composition is completed by the juxtaposition of the trapezoid chimney of elaborate brick design.

1505 and 1507 Paul W. Bryant Dr are not listed in the Myrtlewood Drive Historic Survey.

Applicable Section(s) of the Tuscaloosa City Ordinance:

Chapter 20 – Planning and Development, Article II – Historic Preservation, Division 2 – Historic Preservation Commission:

Sec. 20-15.28(d)11: Removal, altering, changing *or amending the historic designation of historic property*. An owner of property located in a historic district or owning a historic property that desires to remove, alter, amend or change the historic designation of such property, may petition the historic preservation commission to remove, alter, amend or change the historic designation of such property. The commission shall hear any such petition at the next regular scheduled monthly meeting following the filing of the petition. The commission after hearing and rendering a decision on such petition, shall forward a recommendation of the commission to city council for the city council to make a determination regarding the historic designation of any such property. Upon receipt of the commission's recommendation, the city council shall conduct a public hearing prior to considering the petition with notice thereof published at least one time in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing. After the hearing the city council, in its sole discretion, may remove, alter, amend or change the historic designation of such property or reject the owner's petition.

STAFF ANALYSIS:

Please reference the attached memorandum from the Office of the City Attorney.

The Alabama Historical Commission (AHC) was consulted regarding this matter. Their assessment was that “the [petition] referred to the [properties] as individually not meeting the criteria to be a designated property. However, the properties are located in a district that contains both contributing and non-contributing properties.” Further, “buildings constructed during a historic period that are currently non-contributing, also have the potential to become contributing buildings.” It follows that “the historic district as a whole must meet the requirements, not necessarily each individual building.”

The following assessment was also provided by the AHC pertaining to the removal:

“The local ordinance specifically refers to vernacular structures that contribute to the feel of the district as a criterion to consider. Regardless of what street the property is located on, the boundary and context should justify the inclusion of a property in a district. A boundary might consider buildings that were constructed during the same period, are of similar size, massing, scale, and if the property impacts the integrity of the historic district.

Use is not under the purview of the Historic Preservation Commission. The previous and current use of a building is not something the HPC can comment on. Adaptive reuse is often used as a preservation tool to protect the integrity of a building or district by allowing changes to occur so that the property can be used.”

M-E-M-O-R-A-N-D-U-M

TO: Historic Preservation Commission

FROM: Office of the City Attorney

RE: OCA 26-0725:
Requested Removal of Historic Designation
1501, 1505, 1507 Paul W Bryant Drive.

DATE: June 03, 2026

Donald Bailey, the owner of 1501, 1505 and 1507 Paul W Bryant Drive has petitioned this commission for the removal of those properties from the Myrtlewood Drive Historic District.

Because the commission rarely considers petitions for removal from a historic district, this memorandum will summarize the law governing designation and removal of historic districts.

A. Designation of Historic Districts

Designation of historic districts is governed by Alabama Code §11-68-6 through §11-68-8 and Tuscaloosa Municipal Code §20-15.28. The historic preservation commission recommends properties and neighborhoods for designation as historic districts. Those recommendations are forwarded to the city council which then accepts or rejects those recommendations.

Among other factors, the commission may recommend designation of a historic district if it finds the district to be “part of the historic, architectural, archaeological or aesthetic heritage of the locality, region, state or nation...” Ala. Code § 11-68-6(c).

In 2004, Tuscaloosa City Council unanimously adopted an ordinance establishing the Myrtlewood Drive Historic District due to “the area possessing such historic significance by reason of its antiquity, architecture, and the historic importance of persons or events identified therewith... as to give such district, as a whole, a character of historic significance worthy of preservation.” The ordinance, a copy of which is attached to this memo, described the historic district to include the three properties in question.

B. Removal of Historic Districts

Removal of historic district designations is governed by §20-15.28(d)(11) of the Tuscaloosa Municipal Code. That code section allows an owner to petition the historic preservation commission for a recommendation of removal. Only city council has the authority to remove a

property from a district. The commission hears the petition and makes a recommendation to the council for or against removal of the subject property.

The ordinance does not set out any specific criteria that the commission must or should consider when hearing a petition for removal of a property. Rather, the burden is on the petitioner to satisfy the commission that the removal of a property is appropriate. The commission is free to consider the criteria for designation set out in §11-68-6(c) when evaluating the appropriateness of removal petition, but the commission is not required to do so. In fact, in this case, the City Council already found in 2004 that the three properties in question met the statutory requirements for inclusion in the Myrtlewood Drive Historic District. Generally, petitions for removal should not be used to revisit or relitigate the Council's original findings. The commission may also consider any other relevant factors, including the precedent that would be set by a recommendation of removal in any given case.

This is not the first time that Donald Bailey, who is the petitioner here, has petitioned for the removal of the subject properties from the Myrtlewood Drive Historic District. Following Council's adoption of the ordinance establishing the Myrtlewood Drive Historic District in 2004, on two separate occasions Donald Bailey petitioned the Council to remove the three subject properties: first on February 3, 2005 and then again on April 28, 2005. On both occasions, the vote failed.

C. Use as a Consideration

Neither the statutes nor the ordinance governing the designation of historic districts and the removal of properties from those districts contemplate consideration of a property's use as a factor to be considered.

The omission of use as a statutory consideration is not accidental. The legislature's stated purpose in authorizing the creation of historic preservation commissions was to preserve and protect buildings, not to preserve the uses to which those buildings were put. Ala. Code §11-68-1. For example, when considering a certificate of appropriateness the Commission's discretion is specifically limited to matters involving exterior appearance: "the commission shall not consider interior arrangement or use having no effect on exterior architectural features." Tuscaloosa Municipal Code §20-15.29(g); Ala. Code §11-68-9(a). Considering the use of a property in the discussion of its removal from a district runs contrary to the commission's authority which relates exclusively to the appearance of structures and generally excludes use as a consideration.

Because the use of buildings is not recognized in the code (either explicitly or implicitly) as relevant to the Commission's considerations, the Commission is advised not to consider it as a factor relevant to the removal of the properties subject to this memo.

Conclusion

In considering whether to recommend the removal of a property from a historic district, the commission may consider any relevant factors. However, the commission is not necessarily required to re-evaluate its original recommendation for inclusion of that property in the district.

Because use of a property is not generally relevant to that property's exterior appearance, and the commission's authority is limited to considerations of exterior appearance, the Commission is advised not to consider use as a factor relevant to whether a property should be removed.

The properties subject to this memo were designated for inclusion in the Myrtlewood Drive Historic District as late as 2004. Twice in 2005 the owner petitioned the City Council for their removal from that district and both times Council voted against their removal.

CHC

cc: Scott Holmes, City Attorney

APPROVED



City Attorney

Prepared By: GG
Requested: Historic Commission
Presentation on: 10-7-04
Suspension of Rules: No

ORDINANCE NO. _____

AN ORDINANCE DECLARING MYRTLEWOOD DRIVE A HISTORIC DISTRICT

WHEREAS, the CITY COUNCIL OF THE CITY OF TUSCALOOSA, by Ordinance No. 6590 and Ordinance No. 6618 established a Historic Preservation Commission, thereby amending Chapter 20 of the Code of Tuscaloosa; and

WHEREAS, Section IV A-g thereof states that in regard to existing Historic Districts officially designated as such by Ordinance of the City of Tuscaloosa pursuant to Act 685 of the 1973 Regular Session of the Alabama Legislature and Regulated by the Heritage Commission of Tuscaloosa County and for which the Alabama Historical Commission (AHC) has determined were documented according to the AHC standards, listed upon the Alabama Register with maps of the Districts and surveyed in accordance with the rules and regulations of the AHC, the requirements otherwise necessary shall not apply and the Commission may base its findings upon such determination by AHC; and

WHEREAS Myrtlewood Drive District was listed on the State of Alabama Survey of Historical Places maintained by the Alabama Historical and the City Council of the City of Tuscaloosa adopted Ordinance No. 2347 on August 1, 1985 designating Myrtlewood Dive a historic district; and has been recommended by the City of Tuscaloosa Historic Preservation Commission for designation as a historic district due to the area possessing such historic significance by reason of its antiquity, architecture, and the historic importance of persons or events identified therewith, including numerous historic structures and sites, as to give such district, as a whole a character of historic significance worthy of preservation, and in the interest of the general welfare of inhabitants in the city, county and state; and that the promotion and preservation of its educational, cultural and economic interests, opportunities and advantages through the preservation and protection of historic buildings, structures, places and areas of historic interest, located therein is desirable; that the preservation, protection and maintenance of the buildings, structures, places and landmarks in the history of the territory and state and of the city is necessary and desirable as being commemorative of the events, circumstances, persons and architecture associated therewith; that such buildings, structures, and places are tangible reminders of such events, circumstances, persons and architecture; and that the preservation and protection of appropriate settings and environment for said buildings, structures, places and areas are necessary for the promotion, development and preservation of the economy, commerce and industry of the state and the city by the preservation and protection of such buildings, structures, places and areas and of appropriate settings and environments therefore and the preservation of the economic value of property within said district is necessary and desirable and in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TUSCALOOSA, by virtue of Act 2004-267 amending Act No. 80-623 and Ordinance No. 6590 and Ordinance No. 6618,

That Chapter 20, Article II Sec 20-13 be and the same is hereby amended as follows:

Sec. 20-13 Myrtlewood Historic District

a) That Myrtlewood Drive be and is hereby declared to be a historic district pursuant to Act No. 80-623 of the 1980 Legislature of Alabama, as amended by Act No. 2004-267.

b) That Myrtlewood Drive Historic District is described as follows:

The north one-half of the southwest quarter (N 1/2 of SW 1/4) of Section 23, Township 21 South, Range 10 West, approximately 4 acres, as the same is shown and depicted as Myrtlewood and recorded in Plat Book 4, at pages 105 and 106, in the office of the probate judge of Tuscaloosa County, Alabama.

c) The following are the names Myrtlewood Drive Historic District property owners in accordance with county tax records at the time of this ordinance:

COLEMAN BRYAN A &	1104 MYRTLEWOOD DR	TUSCALOOSA	AL	35401
MCHENRY MURRELLE D	1025 MYRTLEWOOD DR	TUSCALOOSA	AL	35401-3035
HAYSLIP WARD C ETUX	1033 MYRTLEWOOD DR	TUSCALOOSA	AL	35401-3035
CARPENTER DONALD PERRY	609 28TH AVE	TUSCALOOSA	AL	35401
MOORE MARLIN D III &	1103 MYRTLEWOOD DR W	TUSCALOOSA	AL	35401-3037
KIZZIAH JAN EDWARD	1100 MYRTLEWOOD DR	TUSCALOOSA	AL	35401
HOUBEN ANDEN	1036 MYRTLEWOOD DR	TUSCALOOSA	AL	35401-3036
SHURETT MYRTLE GREENE	1028 MYRTLEWOOD DR	TUSCALOOSA	AL	35401-3036
PEARSON MILTON W &	1026 MYRTLEWOOD DR	TUSCALOOSA	AL	35401-3036
CONAWAY MICHAEL B AND	1022 MYRTLEWOOD DR	TUSCALOOSA	AL	35401
TIPPY MARGARITA LENA	24 BUENA VISTA	TUSCALOOSA	AL	35401
TROST THEODORE L AND	1014 MYRTLEWOOD	TUSCALOOSA	AL	35401
CHAMPION H BALLARD &	2121 SIGNAL POINT RD	GUNTERSVILLE	AL	35976-9863
MOSS JOHN B &	1009 MYRTLEWOOD DR	TUSCALOOSA	AL	35401
NCNAIR LYNNE P &	2116 8TH STREET	TUSCALOOSA	AL	35401
JUNKIN GROVER B ETUX PATRICIA	9915 S PARK CIRCLE	FAIRFAX STATION	VA	22039
MCCARTY DAVID E &	1146 LAKE FOREST CIRCLE	BIRMINGHAM	AL	35244
MCCARVER RONALD B ETUX	1017 MYRTLEWOOD DR	TUSCALOOSA	AL	35401
MCCORMACK FRANK M ETUX MARY B	1021 MYRTLEWOOD DR	TUSCALOOSA	AL	35401-3035
BAILEY DONALD EUGENE	3766 CLARIDGE RD N	TUSCALOOSA	AL	35401-2430
MAINSTREET INVESTMENTS LLC	3766 CLARIDGE RD N	MOBILE	AL	36608
BAILEY DONALD EUGENE	3766 CLARIDGE RD N	MOBILE	AL	36608

d) That in accordance with Ala Code section 11-68-9, and 11-68-11 (1975) and Ordinance No. 6590 establishing a Historic Preservation Commission, Sec III-D3 Statement of the Commission's Powers and Duties authorizes the City of Tuscaloosa Historic Preservation

Commission to review applications for Certificates of Appropriateness and grant or deny the same in accordance with the provisions of the Ordinance. All Historic Districts designated by the City Council of the City of Tuscaloosa pursuant to said statutes and ordinances shall be under the administration of the Tuscaloosa Historic Preservation Commission.

e) That Myrtlewood Drive Historic District shall be shown on the official Historic District Map of the City of Tuscaloosa.

COUNCIL ACTION

Resolution _____
Ordinance _____
Introduced _____
Passed _____
2nd Reading _____
Unanimous _____
Failed _____
Tabled _____
Amended _____
Comments: _____

ESPY, SCOGIN, CAIN AND HAMBY, P.C.

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May 11, 2026

SENT VIA FIRST-CLASS MAIL TO:

Tuscaloosa Historic Preservation Commission
P.O. Box 2089
Tuscaloosa, AL 35403

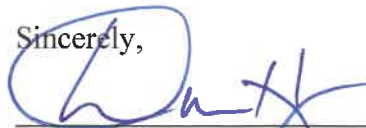
**re: Petitions for Removal of Historic Designation
 1501 Paul W. Bryant Drive – Myrtlewood Drive Historic District
 1505 Paul W. Bryant Drive – Myrtlewood Drive Historic District
 1507 Paul W. Bryant Drive – Myrtlewood Drive Historic District**

Dear Commissioners,

My firm represents Donald Eugene Bailey as it relates to the above-described properties. Enclosed please find three petitions for the removal of said properties from the Myrtlewood Drive Historic District and the grounds stated for support for the same, along with a check for the filing fee.

Please let me know if you have any questions, concerns, or issues with the petitions. I look forward to presenting these at the next available public hearing. Thank you for your attention to this matter.

Sincerely,



Victor M. Hamby, Jr.

E: Tuscaloosa.law@gmail.com

Enclosures: Petitions for Removal of Historic Designation – 1501, 1505, and 1507 Paul W. Bryant Drive

**BEFORE THE HISTORIC PRESERVATION COMMISSION
OF THE CITY OF TUSCALOOSA, ALABAMA**

**IN THE MATTER OF THE PETITION
OF DONALD EUGENE BAILEY
FOR REMOVAL OF HISTORIC DESIGNATION
AS TO PROPERTY LOCATED AT
1501 PAUL W. BRYANT DRIVE**

PETITION FOR REMOVAL OF HISTORIC DESIGNATION

I. IDENTITY OF PETITIONER AND AUTHORITY TO PETITION

Petitioner Donald Eugene Bailey ("Petitioner" or "Bailey") is the owner in fee simple of the real property located at **1501 Paul W. Bryant Drive** lying in Tuscaloosa, Alabama, more particularly described as Part of Lots 1 and 2, Myrtlewood Heights, Tuscaloosa County, Alabama (northerly portion; street address: 1501 Paul W. Bryant Drive), as described in Deed Book 2002, Page 19904, recorded in the Probate Office of Tuscaloosa County, Alabama (the "Subject Property"). A true and correct copy of the Warranty Deed conveying the Subject Property to Donald Eugene Bailey is attached hereto as **Exhibit "A"** and incorporated herein by reference. A true and correct copy of the plat of Myrtlewood Heights recorded in Plat Book 4, Page 105, in the Probate Office of Tuscaloosa County, Alabama, is attached hereto as **Exhibit "B"** and incorporated herein by reference.

Pursuant to Section 20-15.28(d)(11) of the Code of the City of Tuscaloosa, Alabama ("City Code"), an owner of property located in a historic district who desires to remove, alter, amend or

change the historic designation of such property may petition the Historic Preservation Commission ("Commission") for such relief. As the owner of the Subject Property, Petitioner is expressly authorized to bring this Petition. Petitioner respectfully requests that the Commission hear this Petition at the next regularly scheduled monthly meeting following its filing, render a decision thereon, and forward its recommendation to the Tuscaloosa City Council for final action as required by Section 20-15.28(d)(11) of the City Code.

II. DESCRIPTION OF THE SUBJECT PROPERTY

The Subject Property is identified as follows:

<u>Street Address:</u>	1501 Paul W. Bryant Drive, Tuscaloosa, Alabama
<u>Legal Description:</u>	Part of Lots 1 and 2, Myrtlewood Heights, Tuscaloosa County, Alabama as described in Deed Book 2002, Pages 19904
<u>Plat Reference:</u>	Plat Book 4, Page 105
<u>Historic District:</u>	Myrtlewood Drive

The Subject Property consists of a residential structure currently used as student rental housing, situated at the outer boundary of the Myrtlewood Drive Historic District. The Subject Property does not does not carry a Myrtlewood Drive address, but is rather addressed on Paul W. Bryant Drive. Photographs depicting the current condition of the Subject Property, its surrounding environment, including the Bryant Row apartment development currently under construction immediately across Paul W. Bryant Drive at 1434 Paul W. Bryant Drive, are attached hereto as **Exhibit "C"** and incorporated herein by reference. For confirmation of the current use as student

rental housing, including the occupancy certificate for three unrelated persons, in contrast to the other properties in Myrtlewood Heights, please see the certificate attached hereto as **Exhibit “D”**.

III. COMPLIANCE WITH NOTICE REQUIREMENTS

This Petition is filed in accordance with Section 20-15.28(d)(11) of the City Code, which expressly authorizes a property owner in a historic district to petition the Commission for removal of a historic designation. Upon filing, the Commission shall hear this Petition at its next regularly scheduled monthly meeting.

Petitioner requests that the Commission provide all required notice of the hearing in conformity with the notice procedures of Ala. Code § 11-68-7 (1975), which requires: (a) a public hearing held at a time and place pursuant to such notices as are specified in the ordinance creating the Commission; and (b) notification by mail of all owners of property identified in the relevant property tax rolls who would be affected by the proposed action, if such owners can be found on reasonable inquiry. Ala. Code § 11-68-7(a)-(b). Petitioner further requests that, consistent with the notice provisions applicable to City Council consideration under Section 20-15.28(d)(11) of the City Code, notice of this Petition and the hearing thereon be published at least one time in a newspaper of general circulation in the municipality at least seven (7) days prior to the scheduled Commission hearing. Upon receipt of the Commission’s recommendation, the City Council shall, pursuant to Section 20-15.28(d)(11) of the City Code, conduct a public hearing with notice published at least one time in a newspaper of general circulation at least seven (7) days prior to that hearing.

IV. GROUNDS FOR REMOVAL OF HISTORIC DESIGNATION

A. The Subject Property Does Not Satisfy the Statutory Criteria for Historic Designation Under Ala. Code § 11-68-6(c)

Under Ala. Code § 11-68-6(c) (1975) (emphasis added), the Commission shall not recommend designation of a historic property or historic district unless it finds that the building, structure, site, or district:

- (i) is identified with or represents a significant aspect of the *cultural, political, economic, military, or social history* of the locality, region, state, or nation;
- (ii) has had a significant relationship with the life of a *historic person or event*, representing a major aspect of the history of the locality, region, state, or nation; or
- (iii) is a part of the *historic, architectural, archaeological, or aesthetic heritage* of the locality, region, state, or nation.

In the case of an individual building or structure, designation as an historic property is authorized only where the building or structure is an example of an architectural style, or combination of architectural styles, which is representative of the municipality creating the commission or which is unique to that municipality. Ala. Code § 11-68-6(c).

These criteria were conditions precedent to the Commission's original recommendation of designation and they are equally applicable when assessing whether a historic designation should be maintained or removed. The Subject Property fails the most consequential of these criteria.

1. No Significant Cultural, Political, Economic, Military, or Social History

The structure located at 1501 Paul W. Bryant Drive is an ordinary residential rental property. It bears no documented association with any significant cultural, political, economic, military, or social event or movement in the history of the City of Tuscaloosa, the State of Alabama, or the nation. The property has been used, and continues to be used, as basic student rental housing serving the University of Alabama community. It has no demonstrable connection

to any historically noteworthy event, institution, organization, or social movement. The mere age of a structure, without more, does not establish the historic significance required by Ala. Code § 11-68-6(c), and the Commission may not recommend the continuation of a historic designation on criteria that were never satisfied or that the passage of time has rendered defunct.

Of particular significance is the manner in which the Subject Property is presently used. Unlike the owner-occupied, single-family residential properties that are the hallmark of the Myrtlewood Drive Historic District's defining character, the Subject Property functions exclusively as student rental housing, as that is its highest and best use. This transient occupancy pattern is wholly inconsistent with the stable residential community for which the Myrtlewood Drive Historic District was established. The revolving tenancy of student renters does not contribute to the preservation of any community history or continuity of use that would justify a historic designation. The property's continued use as a student rental unit has no meaningful relationship to the cultural, social, or historical identity of the Myrtlewood Drive neighborhood.

2. No Significant Relationship with a Historic Person or Event

The Subject Property has had no documented significant relationship with the life of any historic person or with any event of major historical importance. No historic figure of local, regional, state, or national significance is associated with this property. The property has served exclusively as ordinary rental residential housing, and no basis, whether historical, biographical, or otherwise, exists for concluding that the Subject Property is associated with the life of a historic person or event representing a major aspect of the history of any locality, region, state, or nation. Ala. Code § 11-68-6(c).

3. The Property Is Not Part of the Historic, Architectural, Archaeological, or Aesthetic Heritage of the Locality

Ala. Code § 11-68-6(c) additionally requires that a designated property or district be “a part of the historic, architectural, archaeological, or aesthetic heritage” of the locality, region, state, or nation. The Subject Property does not meet this standard. It is an ordinary rental home that contributes nothing to the architectural heritage, archaeological record, or aesthetic fabric of Tuscaloosa distinct from its neighboring non-designated properties. Its designation imposes certificate-of-appropriateness obligations under Section 20-15.29(a) of the City Code that serve no legitimate preservation purpose where no cognizable historic or aesthetic value beyond the ordinary is present.

Petitioner acknowledges that the Subject Property, as a structure within the Myrtlewood Heights subdivision, bears certain outward resemblance to other residential structures that front Myrtlewood Drive, and that it physically fronts Myrtlewood Drive on one side. However, this architectural similarity to neighboring properties does not supply the affirmative showing required by Ala. Code § 11-68-6(c) that the property itself represents a heritage worthy of individual historic protection. Similarity to neighboring structures is not the equivalent of historic significance. Further, as the Commission may see in the photographs in Exhibit “C” attached hereto, this property differs substantially in compared to the Tudor Revival homes in Myrtlewood in that it is much more of a Collegiate Gothic or Gothic Revival style home in that it has a pointed Gothic arch over the entry, uses a Herringbone brick pattern, and contains a round arched window with a circular brick surround. Further, as the Commission may see in said photographs, the homes in the Myrtlewood Heights District, except for Petitioner’s are all associated with substantially larger lots and contain driveways suitable for parking multiple vehicles and for backyard entertainment, which Petitioner’s lacks in relation thereto. This is in contrast to the storybook-cottage style Tudor

revival homes in the interior of Myrtlewood Heights. Even if similar in some aspects, the Commission should not conflate architectural conformity with the area's character with the distinct statutory inquiry of whether the property independently constitutes a part of the city's historic, architectural, or aesthetic heritage.

B. The Subject Property Bears a Paul W. Bryant Drive Address and is Functionally and Contextually Disconnected from the Residential Interior of the Myrtlewood Drive Historic District

Although the Subject Property does physically front Myrtlewood Drive, it does not carry a Myrtlewood Drive address. Its assigned street address is 1501 Paul W. Bryant Drive, reflecting the property's functional orientation toward and access from Paul W. Bryant Drive, a major heavily-traveled arterial roadway bearing no resemblance, functionally or aesthetically, to the quiet residential interior of Myrtlewood Drive for which the historic district was created and named.

As demonstrated by the plat attached as **Exhibit "B"**, the Subject Property is situated at the outer edge of Lots 1 and 2 of Myrtlewood Heights, at the periphery of the historic district, where the residential fabric of the neighborhood transitions into the high-density, institutional, and commercial corridor of Paul W. Bryant Drive. The property is thus geographically positioned at the margin, rather than at the core of, the Myrtlewood Drive Historic District.

The Myrtlewood Drive Historic District was established to protect the residential character of Myrtlewood Drive, and will continue to do so following the removal of the Subject Property therefrom. This is because the Subject Property has its municipal address and neighborhood identity tied to Paul W. Bryant Drive. This factual distinction is material: the district's historic character is defined by the residential streetscape of Myrtlewood Drive itself, and a property that is functionally addressed to and accessed from Paul W. Bryant Drive occupies a qualitatively different contextual position from the district's core residential properties.

C. The Immediately Surrounding Land Uses Are Incompatible with the Historic Residential Character of the Myrtlewood District and Are Rapidly Transforming the Neighborhood Context

The Subject Property at 1501 Paul W. Bryant Drive is situated directly across Paul W. Bryant Drive from multi-family housing developments and, critically, from the Bryant Row apartment development currently under construction at 1434 Paul W. Bryant Drive. As depicted in the photographs attached hereto as **Exhibit "C"**, Bryant Row represents a large-scale, multi-family apartment complex designed to serve the University of Alabama student housing market. Its construction immediately across from the Subject Property is emblematic of the rapid transformation of the Paul W. Bryant Drive corridor from residential to high-density student housing and commercial uses.

The character of the area immediately surrounding the Subject Property is no longer defined by the quiet, stable, owner-occupied single-family residential use that characterizes the Myrtlewood Drive Historic District's interior. The Subject Property exists in a transitional zone between that historic district and the dense student-oriented development of the Paul W. Bryant Drive corridor. Maintaining a historic designation over this peripheral parcel while the immediately adjacent streetscape is undergoing transformation into high-density apartment housing extends regulatory controls beyond any historically justified district boundary and serves no cognizable preservation purpose.

Section 20-15.28(b)(1) of the City Code defines a historic district as a "geographically definable area" containing structures that, among other criteria, represent "an overall character and sense of place which is representative of the city." Section 20-15.28(b)(1)(e). A property that is physically flanked by an in-construction large-scale apartment complex and the heavy vehicular traffic of Paul W. Bryant Drive does not contribute to any cohesive historic character or sense of

place consistent with the Myrtlewood Drive Historic District. The district's geographic integrity is undermined by extending its regulatory reach to a property whose immediate context is defined by dense modern rental housing and an arterial roadway.

D. The Property Functions as Ordinary Student Rental Housing and Lacks Any Distinguishing Historic Character Warranting Continued Designation

The Subject Property is currently used as ordinary student rental housing, consistent with its location adjacent to the University of Alabama campus and the dense rental market of the Paul W. Bryant Drive corridor. This use is in marked contrast to the owner-occupied, single-family residential uses that predominate among the Myrtlewood Drive properties that form the district's core, and which are the very properties for which the historic designation was established to provide protection and preservation incentives.

Nothing about the Subject Property's current use, condition, or character connects it to any preserved historic tradition, historic person, historic event, or architectural heritage of the City of Tuscaloosa that is not equally attributable to the surrounding non-designated rental housing stock. The imposition of historic preservation controls, including the Certificate of Appropriateness requirement under Section 20-15.29(a) of the City Code, which prohibits any material change in the exterior appearance of the property without Commission approval, constitutes a substantial and unjustified regulatory burden on an ordinary student rental property that does not warrant such oversight under Ala. Code § 11-68-6(c).

The Alabama Attorney General has recognized that a historic preservation commission may not deny approval based on proposed use unless the use is "not in harmony with the prevailing character of the historic district affected or ... obviously incongruous with this character." *Opinion of the Attorney General to the Honorable Betsy B. Hayslip*, Executive Director, Heritage

Commission of Tuscaloosa County, dated January 23, 1990, A.G. No. 90-00115. By extension, where the existing and continuing use of a property, student rental housing, is itself incongruent with the residential owner-occupied character of the historic district, the justification for maintaining historic designation of that property is substantially diminished. The Subject Property's function as transient student rental housing is not congruent with the preservation objectives that animate the Myrtlewood Drive Historic District.

E. The Commission Must Apply the Statutory Designation Criteria in Evaluating a Petition for Removal

The Commission's authority to recommend designation is expressly conditioned upon satisfying the criteria of Ala. Code § 11-68-6(c) and the parallel provisions of Section 20-15.28 of the City Code. Where, as is the case here, the Subject Property cannot satisfy those criteria as said property (i) lacks any significant cultural, political, economic, military, or social history (ii) has no documented relationship with a historic person or event; and (iii) contributes no distinct historic, architectural, or aesthetic heritage to the locality, the continuation of a historic designation is legally impermissible.

The Alabama Court of Civil Appeals has recognized that historic preservation commissions must base their decisions on "specific uniform standards" rather than vague or generalized assessments of historic character. *Shoal Creek Land & Cattle, LLC v. City of Arab*, 250 So.3d 602, 609 (Ala. Civ. App. 2017). Where those standards cannot be met, the designation cannot lawfully stand. An arbitrary refusal to remove a designation that fails all applicable statutory criteria would itself constitute arbitrary and capricious action subject to legal challenge. Accordingly, the Commission's recommendation should be to remove the historic designation of the Subject Property.

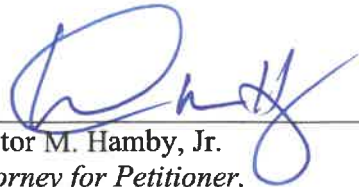
V. REQUEST FOR HEARING AND RELIEF REQUESTED

WHEREFORE, Petitioner Donald Eugene Bailey respectfully requests that the Historic Preservation Commission of the City of Tuscaloosa:

- a. Schedule this Petition for hearing at the Commission's next regularly scheduled monthly meeting following the filing of this Petition, as required by Section 20-15.28(d) of the City Code;
- b. Provide all required notice of the hearing to affected property owners and to the public in compliance with Ala. Code § 11-68-7 and applicable provisions of the City Code;
- c. After hearing, recommend to the Tuscaloosa City Council that the historic designation of the Subject Property located at 1507 Paul W. Bryant Drive, Tuscaloosa, Alabama, as described herein, be removed from the Myrtlewood Drive Historic District; and
- d. Grant such other and further relief as the Commission and the City Council deem just and proper.

Petitioner further requests that upon receipt of the Commission's recommendation, the Tuscaloosa City Council schedule and conduct a public hearing on this Petition with notice published at least one time in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing, as required by Section 20-15.28(d)(11) of the City Code, and thereafter exercise its sole discretion to remove the historic designation of the Subject Property.

Respectfully submitted on this the 11th day of May, 2026.



Victor M. Hamby, Jr.
Attorney for Petitioner,
Donald Eugene Bailey

ESPY, SCOGIN, CAIN AND HAMBY, P.C.
2728 8th Street
Tuscaloosa, AL 35401
Telephone: (205) 758-5591
Facsimile: (205) 758-2801
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Mark A. Scogin
Attorney for Petitioner,
Donald Eugene Bailey

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Tuscaloosa, AL 35401
Telephone: (205) 758-5591
Facsimile: (205) 758-2801
Email: Scogin.law@gmail.com

EXHIBITS TO PETITION

1. **Exhibit “A”** – Warranty Deed from Mainstreet Investments, L.L.C. to Donald Eugene Bailey as recorded in Deed Book 2002, Pages 19904 in the Probate Office of Tuscaloosa County, Alabama;
2. **Exhibit “B”** – Map/Plat of Myrtlewood Heights, Tuscaloosa, Alabama, recorded in Plat Book 4, Page 105 in the Probate Office of Tuscaloosa County, Alabama;
3. **Exhibit “C”** – Photographs of the Subject Property depicting its current condition, its character as ordinary residential rental housing, its location adjacent to apartment complex and multi-family housing, its frontage on Paul W. Bryant Drive rather than Myrtlewood Drive, and contrasting the Subject Property from homes in the interior of the Myrtlewood Heights subdivision.

EXHIBIT "A"
WARRANTY DEED FOR SUBJECT PROPERTY

This instrument was prepared by
Michael J. Cartee
Shelby and Cartee, Attorneys at Law
2210 8th Street, Suite B, Tuscaloosa, Alabama 35401
Form 1-1-6 Rev. 8-70
WARRANTY DEED - LAWYERS TITLE INS. CORP., BIRMINGHAM, ALABAMA

2002 19904
Recorded in the Above
DEED Book & Page
11-12-2002 09:40:49 AM
Source Of Title: 2002 / 4581
W. Hardy McCollum - Probate Judge
Tuscaloosa County, Alabama

STATE OF ALABAMA)
) KNOW ALL MEN BY THESE PRESENTS,
COUNTY OF Tuscaloosa)

That in consideration of Ten Dollars and other good and valuable consideration to the undersigned grantor Mainstreet Investments, L.L.C.

in hand paid by Donald Eugene Bailey

the receipt of which
is hereby acknowledged, the said Mainstreet Investments, L.L.C.

does by these presents, grant, bargain, sell and convey unto the said Donald Eugene Bailey

the following described real estate situated in Tuscaloosa County, Alabama, to-wit:

Part of Lots 1 and 2 Myrtlewood Heights, a map or plat of which is recorded in Plat Book 4, at Pages 105 and 106 in the Probate Office of Tuscaloosa County, Alabama, and being more particularly described as follows: Begin at a point on the South margin of Tenth Street 46 feet East of the Northwest corner of Lot No. 1, as shown and designated on a map or plat of a subdivision known as Myrtlewood Heights of record in Plat Book No. 4, at Pages 105 and 106 in the Office of the Judge of Probate of Tuscaloosa County, Alabama, which said record is made a part of this description by reference; from said point of beginning continue in an Easterly direction along the North margin of said Lot No. 1 a distance of 46 feet to a point; run thence Southerly and parallel with the West margin of Lots No. 1 and 2 of said Subdivision a distance of 110.4 feet to the Southern boundary of said Lot No. 2; thence Westerly along the South margin of said No. Lot 2 a distance of 46 feet to a point; thence Northerly and parallel to the Western margin of said Lots No. 1 and 2 a distance of 109.2 feet to the point of beginning, all being in the City of Tuscaloosa, County of Tuscaloosa, (CONTINUED ON ATTACHED EXHIBIT "A")

This conveyance is hereby made subject to restrictive covenants, rights of way easements and reservations of record that apply to the hereinabove described real property.

TO HAVE AND TO HOLD To the said Donald Eugene Bailey

his successors and assigns
forever.

And said Mainstreet Investments, L.L.C.

does for itself, its successors and assigns, covenant with said Donald Eugene Bailey

his
successors and assigns, that it is lawfully seized in fee simple of said premises, that they are free from all encumbrances unless otherwise noted above, that it has a good right to sell and convey the same as aforesaid, and that it will, and its successors and assigns shall, warrant and defend the same to the said Donald Eugene Bailey

his successors and assigns forever,
against the lawful claims of all persons,

Exhibit "A"

LEGAL DESCRIPTION (continued)

State of Alabama.

SOURCE OF TITLE: Deed Book 2002 Page 4581; Deed Book 2002 Page 4750

2002 19905
Recorded in the Above
DEED Book & Page
11-12-2002 09:40:49 AM

IN WITNESS WHEREOF, the said Mainstreet Investments, L.L.C., a limited liability company, by its Member, Chad Gore, who is authorized to execute this conveyance, has hereto set its signature and seal this the 8th day of November, 2002.


Mainstreet Investments,
L.L.C.

By:  (SEAL)
Chad Gore
Its: Member

STATE OF ALABAMA)
)
Tuscaloosa COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Chad Gore whose name as Member of Mainstreet Investments, L.L.C., is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, he, as such Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 8th day of November A.D., 2002


NOTARY PUBLIC

My commission expires:

01 30 03

2002 19906
Recorded in the Above
DEED Book & Page
11-12-2002 09:40:49 AM
Source Of Title: 2002 / 4581
W. Hardy McCollum - Probate Judge
Tuscaloosa County, Alabama
Book/Pg: 2002/19904
Term/Cashier: SCAN2 / HazelN
Tran: 3785.299993.333642
Recorded: 11-12-2002 09:41:13
DFE Deed Tax 119.00
PJF Probate Judge Fee 2.00
REC Recording Fee 8.50
SDI Source of Title 1.25
Total Fees: \$ 130.75

EXHIBIT “B”
SUBDIVISION PLAT FOR MYRTLEWOOD HEIGHTS

State of Alabama
Tuscaloosa County

I, Woolsey Finell, Judge of Probate in and for said County and said state hereby certify that, W.H. Hargrove, GW Salley, Clara Verner, Mary Verner and John Verner whose names are signed to the foregoing certificate, and who are known to me, acknowledged before me on this day, that being informed of the contents of the said certificate, they executed the same voluntarily on the day same bears date.

Given under my hand this the 31st day of July 1926

Woolsey Finell
Judge of Probate

MAP OF
MYRTLEWOOD HEIGHTS

Tuscaloosa, Alabama.
W. H. Nicol, Civil Engineer
July 26 1926 Scale 1 inch to 30 feet.

State of Alabama
Tuscaloosa County
I, W.H. Nicol, Civil Engineer of Tuscaloosa, Alabama, do hereby certify that this map is a true and correct map of a survey of Myrtlewood Heights in the County and City of Tuscaloosa, State of Alabama, and in Section 23, Township 21 South, Range 10 West as shown by the measurements and bearings thereon;

And We, the undersigned W.H. Hargrove and GW Salley owners of Lots 1 to 7, and Lots 18 to 24 inclusive, and we the undersigned Clara Verner, Mary Verner and John Verner owners of Lots 8 to 17 inclusive as shown by said map, do hereby certify that we accept said survey in accordance with the provisions of Article 2 Page 1430 of the Code of Alabama.

Given under our hand this day July 1926

W.H. Nicol
Civil Engineer

W. H. Hargrove
G. W. Salley
Clara Verner
Mary Verner
John Verner
OWNERS

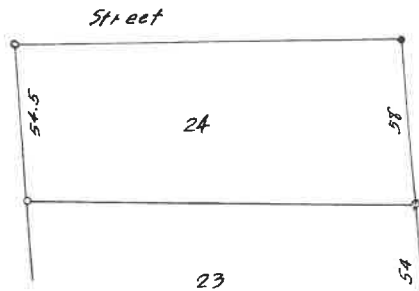
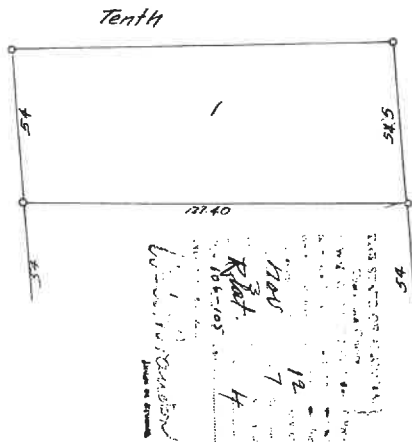


EXHIBIT "C"
PHOTOGRAPHS OF SUBJECT PROPERTY
AND
MYRTLEWOOD HEIGHTS



Facing Subject Property from Paul W. Bryant Drive



Facing Paul W. Bryant Drive and Bryant Row Apartments from Subject Property



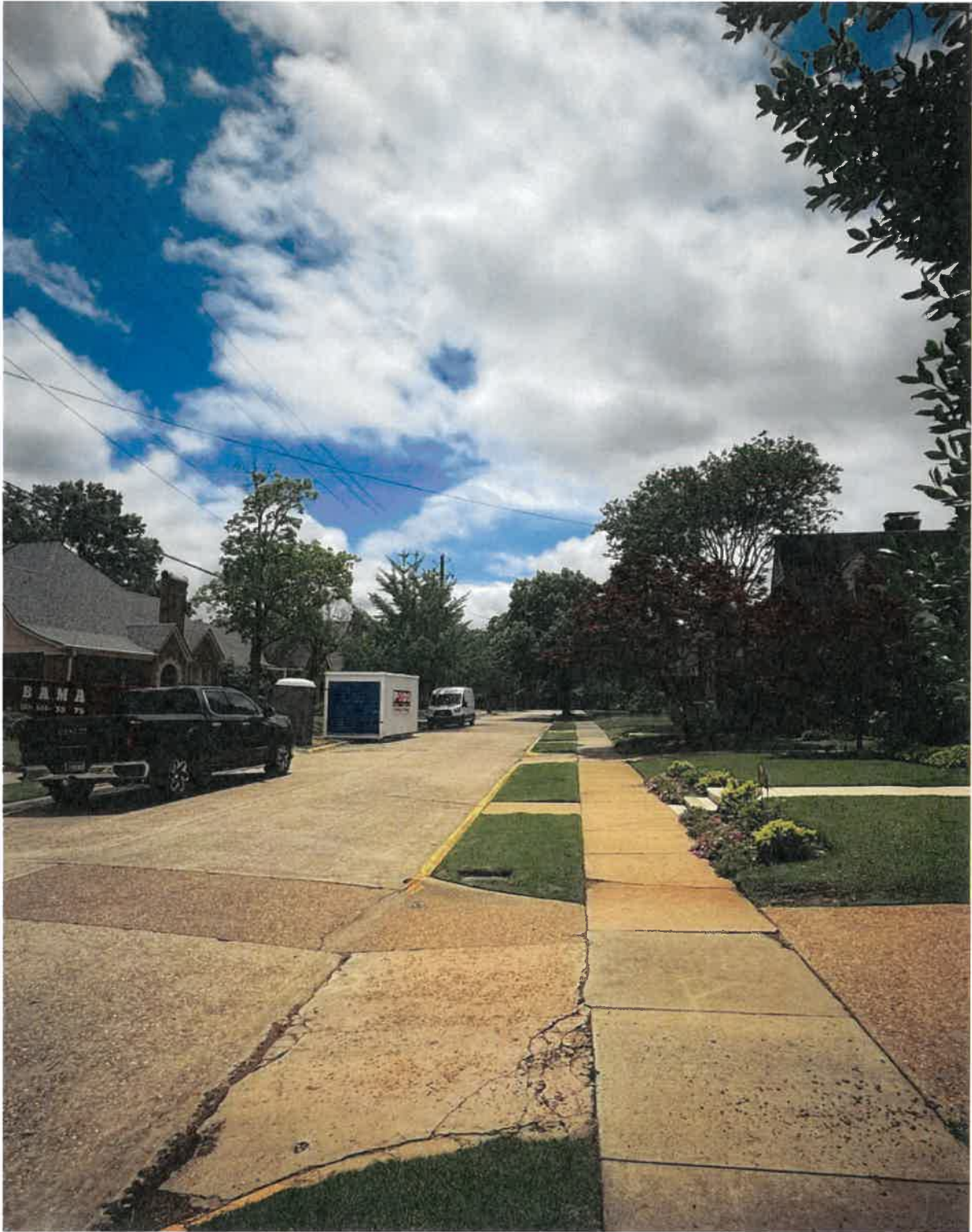
Facing East on Paul W. Bryant Drive from Subject Property



Facing West on Paul W. Bryant Drive from Subject Property



Facing Intersection of Paul W. Bryant Drive and Myrtlewood Drive



Facing Interior of Myrtlewood Heights Subdivision from Subject Property



Interior of Myrtlewood Heights Subdivision



Interior of Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision

EXHIBIT “D”

CERTIFICATION FOR OCCUPANCY

City of Tuscaloosa

COUNCIL
BOBBY E. HOWARD
District 1
HARRISON L. TAYLOR
District 2
President Pro-Tem
CYNTHIA LEE ALMOND
District 3
LEE GARRISON
District 4

POST OFFICE BOX 2089
TUSCALOOSA, ALABAMA 35403
Web Site Address: www.ci.tuscaloosa.al.us

WALTER MADDOX
Mayor

COUNCIL
KIP TYNER
District 5
BOB LUNDELL
District 6
WILLIAM TINKER III
District 7

October 17, 2005

Mr. Donald Bailey
5318 Rice Mine Road NE
Tuscaloosa, AL 35406

RE: 1501, 1505, 1507 Paul W. Bryant Dr.

Dear Mr. Bailey:

This letter is to confirm that the properties listed below are registered with the City of Tuscaloosa Community Planning and Development Department. The properties can continue to be occupied by three unrelated persons as it is stated in ordinance 24-43 of the City of Tuscaloosa Code.

1501 Paul W. Bryant Dr. Tax Parcel ID: 31-06-23-3-005-019.000
1505 Paul W. Bryant Dr. Tax Parcel ID: 31-06-23-3-005-020.000
1507 Paul W. Bryant Dr. Tax Parcel ID: 31-06-23-3-005-021.000

John McConnell



Zoning Inspector

COMMUNITY PLANNING AND DEVELOPMENT DEPARTMENT
(205) 349-0160
FAX (205) 349-0135

WILLIAM L. SNOWDEN, AICP
DIRECTOR

EVELYN K. YOUNG, AICP
ASSOCIATE DIRECTOR

**BEFORE THE HISTORIC PRESERVATION COMMISSION
OF THE CITY OF TUSCALOOSA, ALABAMA**

**IN THE MATTER OF THE PETITION
OF DONALD EUGENE BAILEY
FOR REMOVAL OF HISTORIC DESIGNATION
AS TO PROPERTY LOCATED AT
1505 PAUL W. BRYANT DRIVE**

PETITION FOR REMOVAL OF HISTORIC DESIGNATION

I. IDENTITY OF PETITIONER AND AUTHORITY TO PETITION

Petitioner Donald Eugene Bailey ("Petitioner" or "Bailey") is the owner in fee simple of the real property located at **1505 Paul W. Bryant Drive** lying in Tuscaloosa, Alabama, more particularly described as Part of Lots 1 and 2, Myrtlewood Heights, Tuscaloosa County, Alabama (northerly portion; street address: 1505 Paul W. Bryant Drive), as described in Deed Book 2002, Page 19904, recorded in the Probate Office of Tuscaloosa County, Alabama (the "Subject Property"). A true and correct copy of the Warranty Deed conveying the Subject Property to Donald Eugene Bailey is attached hereto as **Exhibit "A"** and incorporated herein by reference. A true and correct copy of the plat of Myrtlewood Heights recorded in Plat Book 4, Page 105, in the Probate Office of Tuscaloosa County, Alabama, is attached hereto as **Exhibit "B"** and incorporated herein by reference.

Pursuant to Section 20-15.28(d)(11) of the Code of the City of Tuscaloosa, Alabama ("City Code"), an owner of property located in a historic district who desires to remove, alter,

amend or change the historic designation of such property may petition the Historic Preservation Commission ("Commission") for such relief. As the owner of the Subject Property, Petitioner is expressly authorized to bring this Petition. Petitioner respectfully requests that the Commission hear this Petition at the next regularly scheduled monthly meeting following its filing, render a decision thereon, and forward its recommendation to the Tuscaloosa City Council for final action as required by Section 20-15.28(d)(11) of the City Code.

II. DESCRIPTION OF THE SUBJECT PROPERTY

The Subject Property is identified as follows:

<u>Street Address:</u>	1505 Paul W. Bryant Drive, Tuscaloosa, Alabama
<u>Legal Description:</u>	Part of Lots 1 and 2, Myrtlewood Heights, Tuscaloosa County, Alabama as described in Deed Book 2002, Pages 19904
<u>Plat Reference:</u>	Plat Book 4, Page 105
<u>Historic District:</u>	Myrtlewood Drive

The Subject Property consists of a residential structure currently used as student rental housing, situated at the fringe and outer boundary of the Myrtlewood Drive Historic District. Photographs depicting the current condition of the Subject Property, its surrounding environment, and its relationship to neighboring commercial and multi-family structures are attached hereto as **Exhibit "C"** and incorporated herein by reference. For confirmation of the current use as student rental housing, including the occupancy certificate for three unrelated persons, in contrast to the other properties in Myrtlewood Heights, please see the certificate attached hereto as **Exhibit "D"**.

III. COMPLIANCE WITH NOTICE REQUIREMENTS

This Petition is filed in accordance with Section 20-15.28(d)(11) of the City Code, which expressly authorizes a property owner in a historic district to petition the Commission for removal of a historic designation. Upon filing, the Commission shall hear this Petition at its next regularly scheduled monthly meeting.

Petitioner requests that the Commission provide all required notice of the hearing in conformity with the notice procedures of Ala. Code § 11-68-7 (1975), which requires: (a) a public hearing held at a time and place pursuant to such notices as are specified in the ordinance creating the Commission; and (b) notification by mail of all owners of property identified in the relevant property tax rolls who would be affected by the proposed action, if such owners can be found on reasonable inquiry. Ala. Code § 11-68-7(a)–(b). Petitioner further requests that, consistent with the notice provisions applicable to City Council consideration under Section 20-15.28(d)(11) of the City Code, notice of this Petition and the hearing thereon be published at least one time in a newspaper of general circulation in the municipality at least seven (7) days prior to the scheduled Commission hearing. Upon receipt of the Commission’s recommendation, the City Council shall, pursuant to Section 20-15.28(d)(11) of the City Code, conduct a public hearing with notice published at least one time in a newspaper of general circulation at least seven (7) days prior to that hearing.

IV. GROUNDS FOR REMOVAL OF HISTORIC DESIGNATION

A. The Subject Property Does Not Satisfy the Statutory Criteria for Historic Designation Under Ala. Code § 11-68-6(c)

Under Ala. Code § 11-68-6(c) (1975) (emphasis added), the Commission shall not recommend designation of a historic property or historic district unless it finds that the building, structure, site, or district:

- (i) is identified with or represents a significant aspect of the *cultural, political, economic, military, or social history* of the locality, region, state, or nation;
- (ii) has had a significant relationship with the life of a *historic person or event*, representing a major aspect of the history of the locality, region, state, or nation; or
- (iii) is a part of the *historic, architectural, archaeological, or aesthetic heritage* of the locality, region, state, or nation.

In the case of an individual building or structure, designation as an historic property is authorized only where the building or structure is an example of an architectural style, or combination of architectural styles, which is representative of the municipality creating the commission or which is unique to that municipality. Ala. Code § 11-68-6(c).

These criteria were conditions precedent to the Commission's original recommendation of designation and they are equally applicable when assessing whether a historic designation should be maintained or removed. The Subject Property fails the most consequential of these criteria.

1. No Significant Cultural, Political, Economic, Military, or Social History

The structure located at 1505 Paul W. Bryant Drive is an ordinary residential rental property. It bears no documented association with any significant cultural, political, economic, military, or social event or movement in the history of the City of Tuscaloosa, the State of Alabama, or the nation. The property has been used, and continues to be used, as basic student rental housing. It has no demonstrable connection to any historically noteworthy event, institution, organization, or social movement. The mere age of a structure, without more, does not establish the historic significance required by Ala. Code § 11-68-6(c), and the Commission

may not recommend the continuation of a historic designation on criteria that were never satisfied.

Of particular significance is the manner in which the Subject Property is presently used. Unlike the owner-occupied, single-family residential properties that are the hallmark of the Myrtlewood Drive Historic District's defining character, the Subject Property functions exclusively as student rental housing, as that is its highest and best use. This transient occupancy pattern is wholly inconsistent with the stable residential community for which the Myrtlewood Drive Historic District was established. The revolving tenancy of student renters does not contribute to the preservation of any community history or continuity of use that would justify a historic designation. The property's continued use as a student rental unit has no meaningful relationship to the cultural, social, or historical identity of the Myrtlewood Drive neighborhood.

2. No Significant Relationship with a Historic Person or Event

The Subject Property has had no documented significant relationship with the life of any historic person or with any event of major historical importance. No historic figure of local, regional, state, or national significance is associated with this property. The property has served exclusively as ordinary rental residential housing, and no basis, whether historical, biographical, or otherwise, exists for concluding that the Subject Property is associated with the life of a historic person or event representing a major aspect of the history of any locality, region, state, or nation. Ala. Code § 11-68-6(c).

3. The Property Is Not an Example of Representative or Unique Architecture

The Commission is authorized to recommend individual-property historic designation only where the building or structure is "an example of an architectural style, or combination of architectural styles, which is representative of the municipality creating the commission or which

is unique to that municipality." Ala. Code § 11-68-6(c). The Subject Property is an unremarkable residential structure that does not represent any distinct or recognizable architectural style associated with the City of Tuscaloosa. As demonstrated by the photographs attached hereto as **Exhibit "C"**, the Subject Property is an ordinary residential building indistinguishable from the generic rental housing stock found throughout the Tuscaloosa metropolitan area. It is a Craftsman bungalow, rather than a Tudor Revival storybook-cottage, which characterizes the interior of the Myrtlewood Heights neighborhood. It does not embody any architectural style that is unique to or widely representative of the City of Tuscaloosa. Its continued historic designation cannot be sustained on architectural grounds.

4. The Property Is Not Part of the Historic, Architectural, Archaeological, or Aesthetic Heritage of the Locality

Ala. Code § 11-68-6(c) additionally requires that a designated property or district be "a part of the historic, architectural, archaeological, or aesthetic heritage" of the locality, region, state, or nation. The Subject Property does not meet this standard. It is an ordinary rental home that contributes nothing to the architectural heritage, archaeological record, or aesthetic fabric of Tuscaloosa. Its designation imposes certificate-of-appropriateness obligations under Section 20-15.29(a) of the City Code that serve no legitimate preservation purpose where no cognizable historic, architectural, or aesthetic value is present.

While the remainder of the homes in the interior of the Myrtlewood Heights subdivision are Tudor Revival homes, the Subject Property is a Craftsman bungalow with stucco exterior, a wide, low-pitched gable, no decorative medieval elements, a horizontal low-to-the-ground home, and a simple unadorned gable. This stands in direct contrast with the remainder of the Myrtlewood Heights homes shown in **Exhibit "C"**, which, as is typical of Tudor Revival style

homes, have dramatic, gabled rooflines, brick exterior with half-timbering, an arched entryway, decorative, romantic detailing, and a vertical emphasis on the structure. While the homes were built around the same time, they engender entirely different architectural styles and philosophies. There is virtually no commonality between the Subject Property and the remainder of the homes in Myrtlewood Heights.

B. The Subject Property is Situated on the Fringe of the Myrtlewood Heights Subdivision and Does Not Front Myrtlewood Drive

The Myrtlewood Drive Historic District was established and named for the residential character of Myrtlewood Drive and its immediate environs within the Myrtlewood Heights subdivision. The Subject Property, however, does not have a Myrtlewood Drive address. To the contrary, its street address is 1505 Paul W. Bryant Drive, meaning the property fronts directly on Paul W. Bryant Drive, which is a heavily traveled arterial roadway bearing little resemblance, functionally or aesthetically, to the quiet residential character of Myrtlewood Drive for which the historic district was created. As demonstrated by the plat attached as **Exhibit "B"**, the Subject Property is situated at the outer edge of Lots 1 and 2 of Myrtlewood Heights, at the extreme fringe and geographic boundary of the subdivision, abutting the Paul W. Bryant Drive corridor and nearly adjacent to Bryant Drive Apartments. Additional apartment and multi-family housing is being constructed across the street (Bryant Row Apartments) which supports Petitioner's argument that the Subject Property is more similar to adjacent Paul W. Bryant Drive student rental housing than it is to primary single family residential housing that comprises Myrtlewood Drive.

The metes and bounds description in the Warranty Deed attached hereto as **Exhibit "A"** confirms that the property begins at a point on the south margin of Paul W. Bryant Drive

(formerly, "Tenth Street"), 46 feet east of the northwest corner of Lot 1, and extends 110.4 feet southerly along the west margin of Lots 1 and 2. This location places the property at the perimeter of Myrtlewood Heights rather than within its interior residential core. The property is geographically, functionally, and aesthetically divorced from the Myrtlewood Drive properties that form the historic district's defining character.

C. The Surrounding Land Uses are Incompatible with the Historic Residential Character of the Myrtlewood District

The Subject Property at 1505 Paul W. Bryant Drive is situated nearly adjacent to an apartment complex and directly across Paul W. Bryant Drive from multi-family housing developments. The character of the immediately surrounding area is defined by high-density student rental housing, the heavy vehicular traffic of Paul W. Bryant Drive, and the commercial and institutional uses typical of the University of Alabama corridor. This context bears no resemblance to the interior residential fabric of the Myrtlewood Historic District.

Section 20-15.28(b)(1) of the City Code defines a historic district as a "geographically definable area" containing structures that, among other criteria, represent "an overall character and sense of place which is representative of the city." Section 20-15.28(b)(1)(e). The Subject Property does not contribute to any cohesive historic character or sense of place consistent with the Myrtlewood Drive Historic District. Its context is defined by dense modern rental housing, a heavily trafficked arterial road, and commercial adjacency. Maintaining historic designation over this peripheral parcel extends regulatory controls beyond any historically justified district boundary and distorts the geographic integrity of the Myrtlewood Drive Historic District.

D. The Property Functions as Ordinary Student Rental Housing and Lacks Any Distinguishing Historic Character.

The Subject Property is currently used as ordinary student rental housing, consistent with its location adjacent to the University of Alabama campus and the dense rental market of the Paul W. Bryant Drive corridor. Nothing about its current use, condition, or character connects it to any preserved historic tradition, historic person, historic event, or architectural heritage of the City of Tuscaloosa. The imposition of historic preservation controls, including the Certificate of Appropriateness requirement under Section 20-15.29(a) of the City Code, which prohibits any material change in the exterior appearance of the property without Commission approval, constitutes a substantial and unjustified regulatory burden on an ordinary rental property that does not warrant such oversight under Ala. Code § 11-68-6(c). As shown in **Exhibit "C"**, the photographs of the Subject Property confirm its ordinary, unremarkable residential character as a Craftsman bungalow.

E. The Commission Must Apply the Statutory Designation Criteria in Evaluating a Petition for Removal

The Commission's authority to recommend designation is expressly conditioned upon satisfying the criteria of Ala. Code § 11-68-6(c) and the parallel provisions of Section 20-15.28 of the City Code. Where, as is the case here, the Subject Property cannot satisfy those criteria, the continuation of a historic designation is legally impermissible. The Alabama Court of Civil Appeals has recognized that historic preservation commissions must base their decisions on "specific uniform standards" rather than vague or generalized assessments of historic character. *Shoal Creek Land & Cattle, LLC v. City of Arab*, 250 So.3d 602, 609 (Ala. Civ. App. 2017). Where those standards cannot be met, the designation cannot lawfully stand. An arbitrary refusal to remove a designation that fails all applicable statutory criteria would itself constitute arbitrary and capricious action subject to legal challenge. Accordingly, the Commission's recommendation should be to remove the historic designation of the Subject Property.

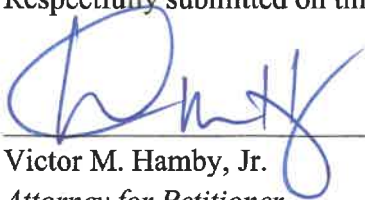
V. REQUEST FOR HEARING AND RELIEF REQUESTED

WHEREFORE, Petitioner Donald Eugene Bailey respectfully requests that the Historic Preservation Commission of the City of Tuscaloosa:

- a. Schedule this Petition for hearing at the Commission's next regularly scheduled monthly meeting following the filing of this Petition, as required by Section 20-15.28(d) of the City Code;
- b. Provide all required notice of the hearing to affected property owners and to the public in compliance with Ala. Code § 11-68-7 and applicable provisions of the City Code;
- c. After hearing, recommend to the Tuscaloosa City Council that the historic designation of the Subject Property located at 1505 Paul W. Bryant Drive, Tuscaloosa, Alabama, as described herein, be removed from the Myrtlewood Drive Historic District; and
- d. Grant such other and further relief as the Commission and the City Council deem just and proper.

Petitioner further requests that upon receipt of the Commission's recommendation, the Tuscaloosa City Council schedule and conduct a public hearing on this Petition with notice published at least one time in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing, as required by Section 20-15.28(d)(11) of the City Code, and thereafter exercise its sole discretion to remove the historic designation of the Subject Property.

Respectfully submitted on this the 11th day of May, 2026.



Victor M. Hamby, Jr.
Attorney for Petitioner,
Donald Eugene Bailey

ESPY, SCOGIN, CAIN AND HAMBY, P.C.

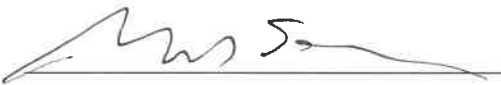
2728 8th Street

Tuscaloosa, AL 35401

Telephone: (205) 758-5591

Facsimile: (205) 758-2801

Email: Tuscaloosa.law@gmail.com



Mark A. Scogin
Attorney for Petitioner,
Donald Eugene Bailey

ESPY, SCOGIN, CAIN AND HAMBY, P.C.

2728 8th Street

Tuscaloosa, AL 35401

Telephone: (205) 758-5591

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1. **Exhibit “A”** – Warranty Deed from Mainstreet Investments, L.L.C. to Donald Eugene Bailey as recorded in Deed Book 2002, Pages 19904 in the Probate Office of Tuscaloosa County, Alabama;
2. **Exhibit “B”** – Map/Plat of Myrtlewood Heights, Tuscaloosa, Alabama, recorded in Plat Book 4, Page 105 in the Probate Office of Tuscaloosa County, Alabama;
3. **Exhibit “C”** – Photographs of the Subject Property depicting its current condition, its character as ordinary residential rental housing, its location nearly adjacent to apartment complex and multi-family housing, and its frontage on Paul W. Bryant Drive rather than Myrtlewood Drive.

EXHIBIT "A"
WARRANTY DEED FOR SUBJECT PROPERTY

This instrument was prepared by
Michael J. Cartee
Shelby and Cartee, Attorneys at Law
2210 8th Street, Suite B, Tuscaloosa, Alabama 35401
Form 1-1-6 Rev. 8-70
WARRANTY DEED - LAWYERS TITLE INS. CORP., BIRMINGHAM, ALABAMA

2002 19904
Recorded in the Above
DEED Book & Page
11-12-2002 09:40:49 AM
Source Of Title: 2002 / 4581
W. Hardy McCollum - Probate Judge
Tuscaloosa County, Alabama

STATE OF ALABAMA)
) KNOW ALL MEN BY THESE PRESENTS,
COUNTY OF Tuscaloosa)

That in consideration of Ten Dollars and other good and valuable consideration to the undersigned grantor Mainstreet Investments, L.L.C.

in hand paid by Donald Eugene Bailey

the receipt of which
is hereby acknowledged, the said Mainstreet Investments, L.L.C.

does by these presents, grant, bargain, sell and convey unto the said Donald Eugene Bailey

the following described real estate situated in Tuscaloosa County, Alabama, to-wit:

Part of Lots 1 and 2 Myrtlewood Heights, a map or plat of which is recorded in Plat Book 4, at Pages 105 and 106 in the Probate Office of Tuscaloosa County, Alabama, and being more particularly described as follows: Begin at a point on the South margin of Tenth Street 46 feet East of the Northwest corner of Lot No. 1, as shown and designated on a map or plat of a subdivision known as Myrtlewood Heights of record in Plat Book No. 4, at Pages 105 and 106 in the Office of the Judge of Probate of Tuscaloosa County, Alabama, which said record is made a part of this description by reference; from said point of beginning continue in an Easterly direction along the North margin of said Lot No. 1 a distance of 46 feet to a point; run thence Southerly and parallel with the West margin of Lots No. 1 and 2 of said Subdivision a distance of 110.4 feet to the Southern boundary of said Lot No. 2; thence Westerly along the South margin of said No. Lot 2 a distance of 46 feet to a point; thence Northerly and parallel to the Western margin of said Lots No. 1 and 2 a distance of 109.2 feet to the point of beginning, all being in the City of Tuscaloosa, County of Tuscaloosa, (CONTINUED ON ATTACHED EXHIBIT "A")

This conveyance is hereby made subject to restrictive covenants, rights of way easements and reservations of record that apply to the hereinabove described real property.

TO HAVE AND TO HOLD To the said Donald Eugene Bailey

his successors and assigns
forever.

And said Mainstreet Investments, L.L.C.

does for itself, its successors and assigns, covenant with said Donald Eugene Bailey

his
successors and assigns, that it is lawfully seized in fee simple of said premises, that they are free from all encumbrances unless otherwise noted above, that it has a good right to sell and convey the same as aforesaid, and that it will, and its successors and assigns shall, warrant and defend the same to the said Donald Eugene Bailey

his successors and assigns forever,
against the lawful claims of all persons.

Exhibit "A"

LEGAL DESCRIPTION (continued)

State of Alabama.

SOURCE OF TITLE: Deed Book 2002 Page 4581; Deed Book 2002 Page 4750

2002 19905
Recorded in the Above
DEED Book & Page
11-12-2002 09:40:49 AM

IN WITNESS WHEREOF, the said Mainstreet Investments, L.L.C., a limited liability company, by its Member Chad Gore, who is authorized to execute this conveyance, has hereto set its signature and seal this the 8th day of November, 2002.

Mainstreet Investments,
L.L.C.

By: [Signature] (SEAL)
Chad Gore
Its: Member

STATE OF ALABAMA)
)
Tuscaloosa COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Chad Gore whose name as Member of Mainstreet Investments, L.L.C., is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, he, as such Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 8th day of November A.D., 2002.

[Signature]
NOTARY PUBLIC

My commission expires:

8/30/03

2002 19906
Recorded in the Above
DEED Book & Page
11-12-2002 09:40:49 AM
Source Of Title: 2002 / 4581
W. Hardy McCollum - Probate Judge
Tuscaloosa County, Alabama
Book/Pg: 2002/19904
Term/Cashier: SCAN2 / HazelN
Tran: 3785.299993.353642
Recorded: 11-12-2002 09:41:13
DFE Deed Tax 119.00
PJF Probate Judge Fee 2.00
REC Recording Fee 8.50
SOT Source of Title 1.25
Total Fees: \$ 130.75

EXHIBIT "B"
SUBDIVISION PLAT FOR MYRTLEWOOD HEIGHTS

State of Alabama
Tuscaloosa County

I, Woolsey Firmell, Judge of Probate in and for said County and said state hereby certify that, W.H. Hargrove, G.W. Salley, Clara Verner, Mary Verner and John Verner whose names are signed to the foregoing certificate, and who are known to me, acknowledged before me on this day, that being informed of the contents of the said certificate, they executed the same voluntarily on the day same bears date.

Given under my hand this the 31st day of July 1926

Woolsey Firmell
Judge of Probate

MAP OF
MYRTLEWOOD HEIGHTS

Tuscaloosa, Alabama.
W. H. Nicol, Civil Engineer
July 26 1926 Scale 1 inch to 30 feet.

State of Alabama
Tuscaloosa County
I, W. H. Nicol, Civil Engineer of Tuscaloosa, Alabama, do hereby certify that this map is a true and correct map of a survey of Myrtlewood Heights in the County and City of Tuscaloosa, State of Alabama, and in Section 23, Township 21 South, Range 10 West as shown by the measurements and bearings thereon;

And We, the undersigned W. H. Hargrove and G. W. Salley owners of Lots 1 to 7, and Lots 18 to 24 inclusive, and we the undersigned Clara Verner, Mary Verner and John Verner owners of Lots 8 to 17 inclusive as shown by said map, do hereby certify that we accept said survey in accordance with the provisions of Article 2 Page 1430 of the Code of Alabama.

Given under our hand this day July 1926

W. H. Nicol
Civil Engineer

W. H. Hargrove
G. W. Salley
Clara Verner
Mary Verner
John Verner
OWNERS
OF LOTS

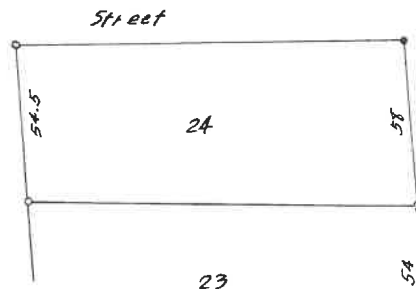
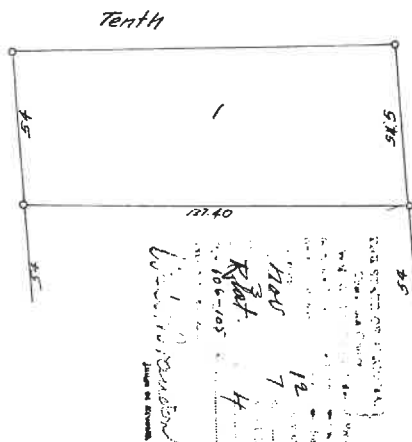
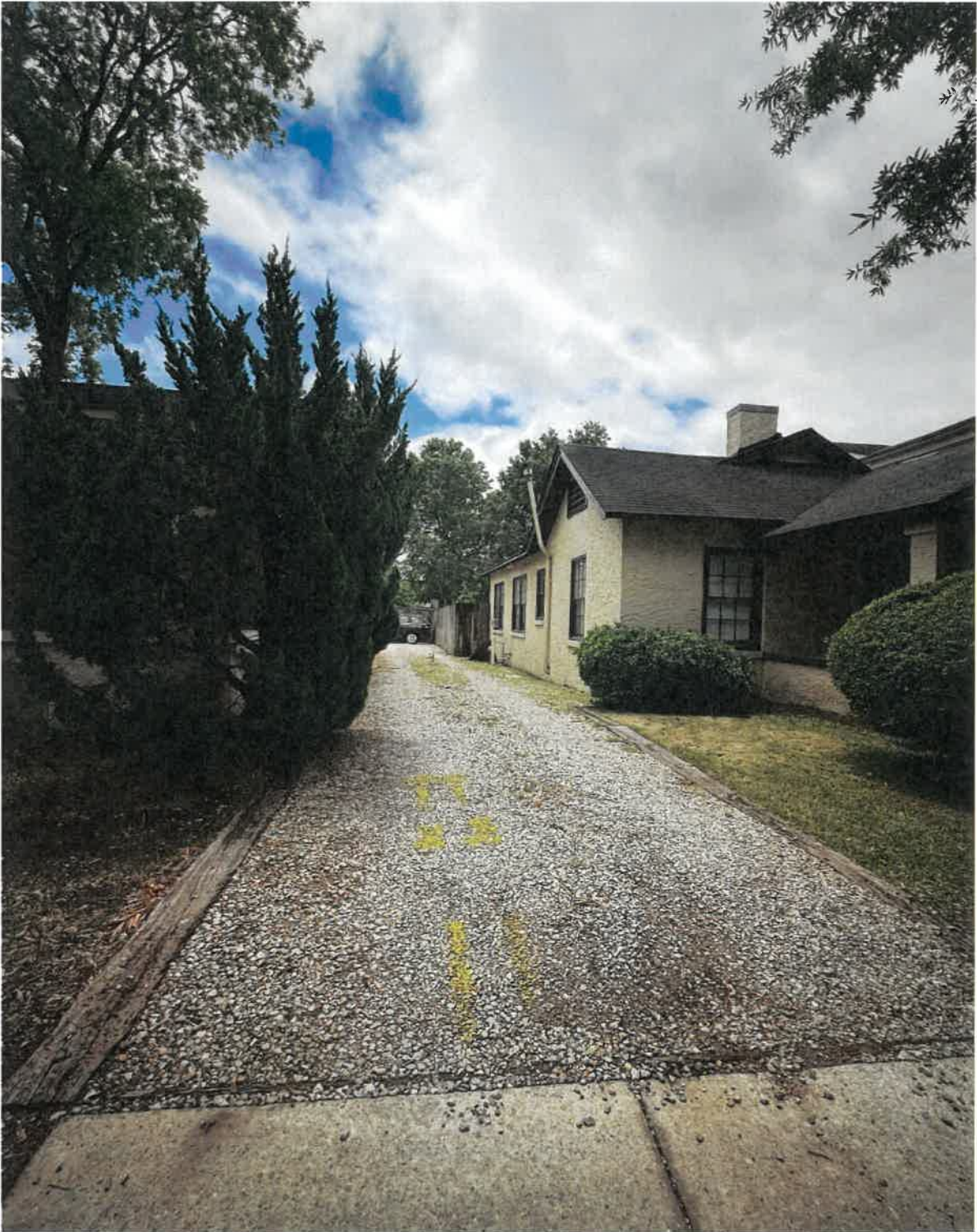


EXHIBIT "C"
PHOTOGRAPHS OF SUBJECT PROPERTY
AND
MYRTLEWOOD HEIGHTS



Facing Subject Property from Paul W. Bryant Drive



Facing Gravel Driveway from Paul W. Bryant Drive



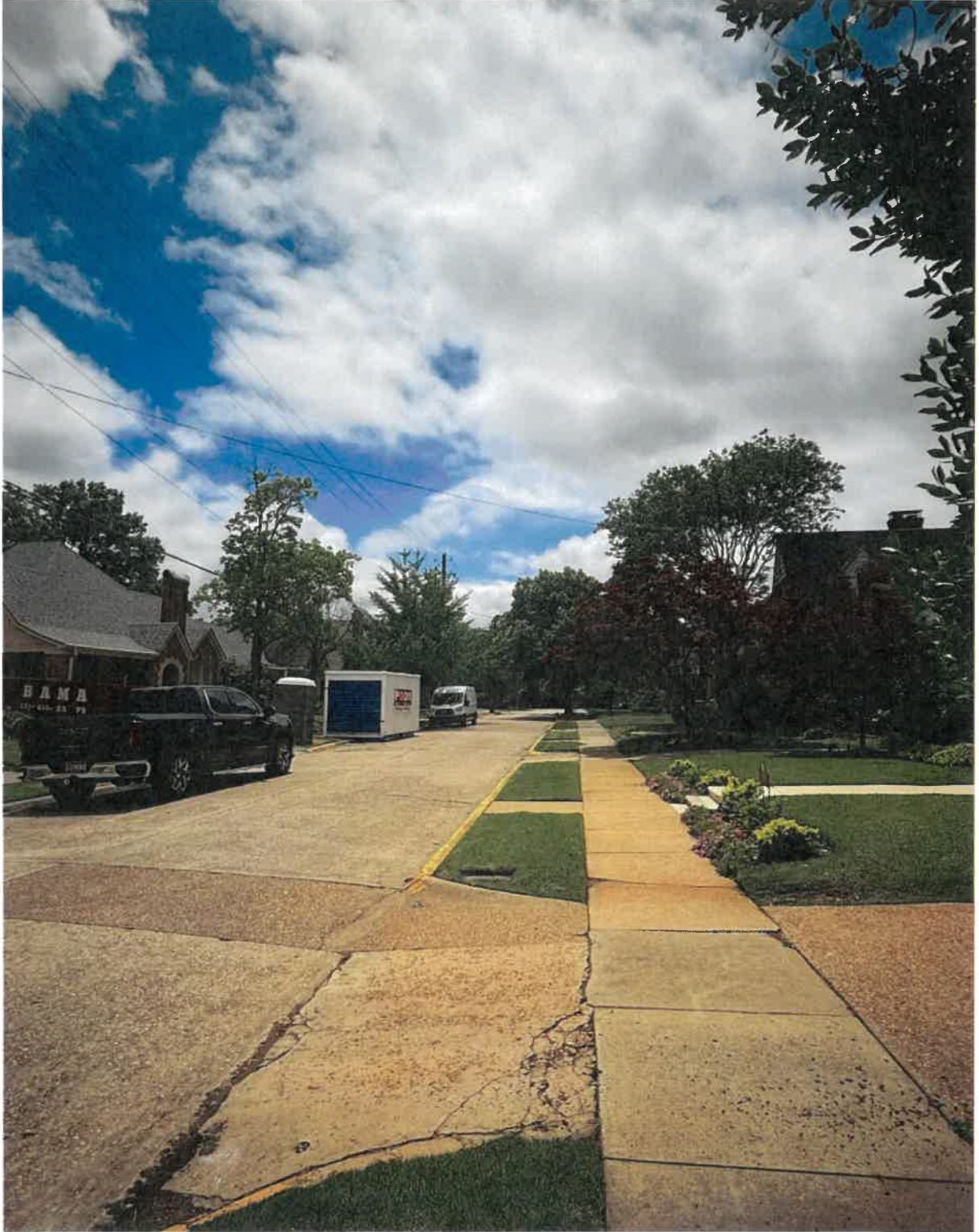
Facing Paul W. Bryant Drive and Bryant Row Apartments from Subject Property



Facing West on Paul W. Bryant Drive from Subject Property



Facing East on Paul W. Bryant Drive from Subject Property



Facing Interior of Myrtlewood Heights Subdivision from Subject Property



Interior of Myrtlewood Heights Subdivision



Interior of Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision

EXHIBIT “D”

CERTIFICATION FOR OCCUPANCY

City of Tuscaloosa

COUNCIL
BOBBY E. HOWARD
District 1
HARRISON L. TAYLOR
District 2
President Pro-Tem
CYNTHIA LEE ALMOND
District 3
LEE GARRISON
District 4

POST OFFICE BOX 2089
TUSCALOOSA, ALABAMA 35403
Web Site Address: www.ci.tuscaloosa.al.us

WALTER MADDOX
Mayor

COUNCIL
KIP TYNER
District 5
BOB LUNDELL
District 6
WILLIAM TINKER III
District 7

October 17, 2005

Mr. Donald Bailey
5318 Rice Mine Road NE
Tuscaloosa, AL 35406

RE: 1501, 1505, 1507 Paul W. Bryant Dr.

Dear Mr. Bailey:

This letter is to confirm that the properties listed below are registered with the City of Tuscaloosa Community Planning and Development Department. The properties can continue to be occupied by three unrelated persons as it is stated in ordinance 24-43 of the City of Tuscaloosa Code.

1501 Paul W. Bryant Dr. Tax Parcel ID: 31-06-23-3-005-019.000
1505 Paul W. Bryant Dr. Tax Parcel ID: 31-06-23-3-005-020.000
1507 Paul W. Bryant Dr. Tax Parcel ID: 31-06-23-3-005-021.000

John McConnell



Zoning Inspector

COMMUNITY PLANNING AND DEVELOPMENT DEPARTMENT
(205) 349-0160
FAX (205) 349-0135

WILLIAM L. SNOWDEN, AICP
DIRECTOR

EVELYN K. YOUNG, AICP
ASSOCIATE DIRECTOR

**BEFORE THE HISTORIC PRESERVATION COMMISSION
OF THE CITY OF TUSCALOOSA, ALABAMA**

**IN THE MATTER OF THE PETITION
OF DONALD EUGENE BAILEY
FOR REMOVAL OF HISTORIC DESIGNATION
AS TO PROPERTY LOCATED AT
1507 PAUL W. BRYANT DRIVE**

PETITION FOR REMOVAL OF HISTORIC DESIGNATION

I. IDENTITY OF PETITIONER AND AUTHORITY TO PETITION

Petitioner Donald Eugene Bailey ("Petitioner" or "Bailey") is the owner in fee simple of the real property located at **1507 Paul W. Bryant Drive** lying in Tuscaloosa, Alabama, more particularly described as Part of Lots 1 and 2, Myrtlewood Heights, Tuscaloosa County, Alabama (northerly portion; street address: 1507 Paul W. Bryant Drive), as described in Deed Book 2002, Page 19904, recorded in the Probate Office of Tuscaloosa County, Alabama (the "Subject Property"). A true and correct copy of the Warranty Deed conveying the Subject Property to Donald Eugene Bailey is attached hereto as **Exhibit "A"** and incorporated herein by reference. A true and correct copy of the plat of Myrtlewood Heights recorded in Plat Book 4, Page 105, in the Probate Office of Tuscaloosa County, Alabama, is attached hereto as **Exhibit "B"** and incorporated herein by reference.

Pursuant to Section 20-15.28(d)(11) of the Code of the City of Tuscaloosa, Alabama ("City Code"), an owner of property located in a historic district who desires to remove, alter,

amend or change the historic designation of such property may petition the Historic Preservation Commission ("Commission") for such relief. As the owner of the Subject Property, Petitioner is expressly authorized to bring this Petition. Petitioner respectfully requests that the Commission hear this Petition at the next regularly scheduled monthly meeting following its filing, render a decision thereon, and forward its recommendation to the Tuscaloosa City Council for final action as required by Section 20-15.28(d)(11) of the City Code.

II. DESCRIPTION OF THE SUBJECT PROPERTY

The Subject Property is identified as follows:

<u>Street Address:</u>	1507 Paul W. Bryant Drive, Tuscaloosa, Alabama
<u>Legal Description:</u>	Part of Lots 1 and 2, Myrtlewood Heights, Tuscaloosa County, Alabama as described in Deed Book 2002, Pages 19904
<u>Plat Reference:</u>	Plat Book 4, Page 105
<u>Historic District:</u>	Myrtlewood Drive

The Subject Property consists of a residential structure currently used as student rental housing, situated at the fringe and outer boundary of the Myrtlewood Drive Historic District. Photographs depicting the current condition of the Subject Property, its surrounding environment, including the Bryant Row apartment development currently under construction immediately across Paul W. Bryant Drive at 1434 Paul W. Bryant Drive, are attached hereto as **Exhibit "C"** and incorporated herein by reference. For confirmation of the current use as student rental housing, including the occupancy certificate for three unrelated persons, in contrast to the other properties in Myrtlewood Heights, please see the certificate attached hereto as **Exhibit "D"**.

III. COMPLIANCE WITH NOTICE REQUIREMENTS

This Petition is filed in accordance with Section 20-15.28(d)(11) of the City Code, which expressly authorizes a property owner in a historic district to petition the Commission for removal of a historic designation. Upon filing, the Commission shall hear this Petition at its next regularly scheduled monthly meeting.

Petitioner requests that the Commission provide all required notice of the hearing in conformity with the notice procedures of Ala. Code § 11-68-7 (1975), which requires: (a) a public hearing held at a time and place pursuant to such notices as are specified in the ordinance creating the Commission; and (b) notification by mail of all owners of property identified in the relevant property tax rolls who would be affected by the proposed action, if such owners can be found on reasonable inquiry. Ala. Code § 11-68-7(a)–(b). Petitioner further requests that, consistent with the notice provisions applicable to City Council consideration under Section 20-15.28(d)(11) of the City Code, notice of this Petition and the hearing thereon be published at least one time in a newspaper of general circulation in the municipality at least seven (7) days prior to the scheduled Commission hearing. Upon receipt of the Commission’s recommendation, the City Council shall, pursuant to Section 20-15.28(d)(11) of the City Code, conduct a public hearing with notice published at least one time in a newspaper of general circulation at least seven (7) days prior to that hearing.

IV. GROUNDS FOR REMOVAL OF HISTORIC DESIGNATION

A. The Subject Property Does Not Satisfy the Statutory Criteria for Historic Designation Under Ala. Code § 11-68-6(c)

Under Ala. Code § 11-68-6(c) (1975), the Commission shall not recommend designation of a historic property or historic district unless it finds that the building, structure, site, or district:

- (i) is identified with or represents a significant aspect of the *cultural, political, economic, military, or social history* of the locality, region, state, or nation;
- (ii) has had a significant relationship with the life of a *historic person or event*, representing a major aspect of the history of the locality, region, state, or nation; or
- (iii) is a part of the *historic, architectural, archaeological, or aesthetic heritage* of the locality, region, state, or nation.

In the case of an individual building or structure, designation as an historic property is authorized only where the building or structure is an example of an architectural style, or combination of architectural styles, which is representative of the municipality creating the commission or which is unique to that municipality. Ala. Code § 11-68-6(c).

These criteria were conditions precedent to the Commission's original recommendation of designation and they are equally applicable when assessing whether a historic designation should be maintained or removed. The Subject Property fails each of these criteria.

1. No Significant Cultural, Political, Economic, Military, or Social History

The structure located at 1507 Paul W. Bryant Drive is an ordinary residential rental property. It bears no documented association with any significant cultural, political, economic, military, or social event or movement in the history of the City of Tuscaloosa, the State of Alabama, or the nation. The property has been used, and continues to be used, as basic student rental housing. It has no demonstrable connection to any historically noteworthy event, institution, organization, or social movement. The mere age of a structure, without more, does not establish the historic significance required by Ala. Code § 11-68-6(c), and the Commission

may not recommend the continuation of a historic designation on criteria that were never satisfied.

2. No Significant Relationship with a Historic Person or Event

The Subject Property has had no documented significant relationship with the life of any historic person or with any event of major historical importance. No historic figure of local, regional, state, or national significance is associated with this property. The property has served exclusively as ordinary rental residential housing, and no basis, whether historical, biographical, or otherwise, exists for concluding that the Subject Property is associated with the life of a historic person or event representing a major aspect of the history of any locality, region, state, or nation. Ala. Code § 11-68-6(c).

3. The Property Is Not an Example of Representative or Unique Architecture

The Commission is authorized to recommend individual-property historic designation only where the building or structure is "an example of an architectural style, or combination of architectural styles, which is representative of the municipality creating the commission or which is unique to that municipality." Ala. Code § 11-68-6(c). The Subject Property is an unremarkable residential structure that does not represent any distinct or recognizable architectural style associated with the City of Tuscaloosa. As demonstrated by the photographs attached hereto as Exhibit C, the Subject Property is an ordinary residential building indistinguishable from the generic rental housing stock found throughout the Tuscaloosa metropolitan area. It does not embody any architectural style that is unique to or widely representative of the City of Tuscaloosa. Its continued historic designation cannot be sustained on architectural grounds.

In contrast with the Tudor Revival storybook-cottage style homes in the interior of Myrtlewood Heights depicted in the attached **Exhibit "C"**, the Subject Property consists of a

Craftsman Bungalow lacking all of the distinguishing characteristics of the former. The Subject Property has a stucco exterior, a curved/rounded roofline on the front gable, a low-pitched profile, dark exposed rater tails and trim, and a simple shed-roof porch with no ornamental decoration whatsoever. In contrast, the remainder of the homes in the interior of the Myrtlewood Heights consist of Tudor Revival storybook-cottages with steep, gabled rooflines, brick exterior with half-to-full timbering, arched entryways, a vertical emphasis, and a decorative, romantic detailing referencing the aforementioned architectural style. While the Subject Property is plain and unpretentious, the Tudor Revival homes indicative of the Myrtlewood Heights district are decorative, romantic, and contain a vertical emphasis. The other homes in the Myrtlewood Heights subdivision are “day” and “night” compared to the Subject Property.

4. The Property Is Not Part of the Historic, Architectural, Archaeological, or Aesthetic Heritage of the Locality.

Ala. Code § 11-68-6(c) additionally requires that a designated property or district be "a part of the historic, architectural, archaeological, or aesthetic heritage" of the locality, region, state, or nation. The Subject Property does not meet this standard. It is an ordinary rental home that contributes nothing to the architectural heritage, archaeological record, or aesthetic fabric of Tuscaloosa. Its designation imposes certificate-of-appropriateness obligations under Section 20-15.29(a) of the City Code that serve no legitimate preservation purpose where no cognizable historic, architectural, or aesthetic value is present.

B. The Subject Property is Situated on the Fringe of the Myrtlewood Heights Subdivision and Does Not Front Myrtlewood Drive

The Myrtlewood Drive Historic District was established and named for the residential character of Myrtlewood Drive and its immediate environs within the Myrtlewood Heights subdivision. The Subject Property, however, does not have a Myrtlewood Drive address. To the

contrary, its street address is 1507 Paul W. Bryant Drive, meaning the property fronts directly on Paul W. Bryant Drive, which is a heavily traveled arterial roadway bearing little resemblance, functionally or aesthetically, to the quiet residential character of Myrtlewood Drive for which the historic district was created. As demonstrated by the plat attached as **Exhibit “B”**, the Subject Property is situated at the outer edge of Lots 1 and 2 of Myrtlewood Heights, at the extreme fringe and geographic boundary of the subdivision, abutting the Paul W. Bryant Drive corridor and adjacent to Bryant Drive Apartments. Additional apartment and multi-family housing is being constructed across the street (Bryant Row Apartments) which supports Petitioner’s argument that the Subject Property is more similar to adjacent Paul W. Bryant Drive student rental housing than it is to primary single family residential housing that comprises Myrtlewood Drive.

The metes and bounds description in the Warranty Deed attached hereto as **Exhibit “A”** confirms that the property begins at a point on the south margin of Paul W. Bryant Drive (formerly, “Tenth Street”), 46 feet east of the northwest corner of Lot 1, and extends 110.4 feet southerly along the west margin of Lots 1 and 2. This location places the property at the perimeter of Myrtlewood Heights rather than within its interior residential core. The property is geographically, functionally, and aesthetically divorced from the Myrtlewood Drive properties that form the historic district’s defining character.

C. The Surrounding Land Uses are Incompatible with the Historic Residential Character of the Myrtlewood District

The Subject Property at 1507 Paul W. Bryant Drive is situated immediately adjacent to an apartment complex and directly across Paul W. Bryant Drive from multi-family housing developments. The character of the immediately surrounding area is defined by high-density

student rental housing, the heavy vehicular traffic of Paul W. Bryant Drive, and the commercial and institutional uses typical of the University of Alabama corridor. This context bears no resemblance to the interior residential fabric of the Myrtlewood Historic District.

Section 20-15.28(b)(1) of the City Code defines a historic district as a "geographically definable area" containing structures that, among other criteria, represent "an overall character and sense of place which is representative of the city." Section 20-15.28(b)(1)(e). The Subject Property does not contribute to any cohesive historic character or sense of place consistent with the Myrtlewood Drive Historic District. Its context is defined by dense modern rental housing, a heavily trafficked arterial road, and commercial adjacency. Maintaining historic designation over this peripheral parcel extends regulatory controls beyond any historically justified district boundary and distorts the geographic integrity of the Myrtlewood Drive Historic District.

D. The Property Functions as Ordinary Student Rental Housing and Lacks Any Distinguishing Historic Character.

The Subject Property is currently used as ordinary student rental housing, consistent with its location adjacent to the University of Alabama campus and the dense rental market of the Paul W. Bryant Drive corridor. Nothing about its current use, condition, or character connects it to any preserved historic tradition, historic person, historic event, or architectural heritage of the City of Tuscaloosa. The imposition of historic preservation controls, including the Certificate of Appropriateness requirement under Section 20-15.29(a) of the City Code, which prohibits any material change in the exterior appearance of the property without Commission approval, constitutes a substantial and unjustified regulatory burden on an ordinary rental property that does not warrant such oversight under Ala. Code § 11-68-6(c). As shown in **Exhibit "C"**, the photographs of the Subject Property confirm its ordinary, unremarkable residential character.

E. The Commission Must Apply the Statutory Designation Criteria in Evaluating a Petition for Removal

The Commission's authority to recommend designation is expressly conditioned upon satisfying the criteria of Ala. Code § 11-68-6(c) and the parallel provisions of Section 20-15.28 of the City Code. Where, as is the case here, the Subject Property cannot satisfy those criteria, the continuation of a historic designation is legally impermissible. The Alabama Court of Civil Appeals has recognized that historic preservation commissions must base their decisions on "specific uniform standards" rather than vague or generalized assessments of historic character. *Shoal Creek Land & Cattle, LLC v. City of Arab*, 250 So.3d 602, 609 (Ala. Civ. App. 2017). Where those standards cannot be met, the designation cannot lawfully stand. An arbitrary refusal to remove a designation that fails all applicable statutory criteria would itself constitute arbitrary and capricious action subject to legal challenge. Accordingly, the Commission's recommendation should be to remove the historic designation of the Subject Property.

V. REQUEST FOR HEARING AND RELIEF REQUESTED

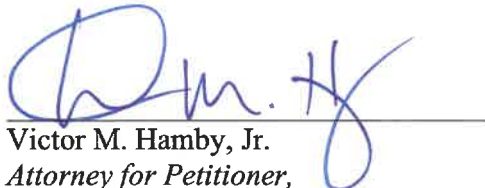
WHEREFORE, Petitioner Donald Eugene Bailey respectfully requests that the Historic Preservation Commission of the City of Tuscaloosa:

- a. Schedule this Petition for hearing at the Commission's next regularly scheduled monthly meeting following the filing of this Petition, as required by Section 20-15.28(d) of the City Code;
- b. Provide all required notice of the hearing to affected property owners and to the public in compliance with Ala. Code § 11-68-7 and applicable provisions of the City Code;

- c. After hearing, recommend to the Tuscaloosa City Council that the historic designation of the Subject Property located at 1507 Paul W. Bryant Drive, Tuscaloosa, Alabama, as described herein, be removed from the Myrtlewood Drive Historic District; and
- d. Grant such other and further relief as the Commission and the City Council deem just and proper.

Petitioner further requests that upon receipt of the Commission's recommendation, the Tuscaloosa City Council schedule and conduct a public hearing on this Petition with notice published at least one time in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing, as required by Section 20-15.28(d)(11) of the City Code, and thereafter exercise its sole discretion to remove the historic designation of the Subject Property.

Respectfully submitted on this the 11th day of May, 2026.



Victor M. Hamby, Jr.
*Attorney for Petitioner,
Donald Eugene Bailey*

ESPY, SCOGIN, CAIN AND HAMBY, P.C.
2728 8th Street
Tuscaloosa, AL 35401
Telephone: (205) 758-5591
Facsimile: (205) 758-2801
Email: Tuscaloosa.law@gmail.com



Mark A. Scogin
Attorney for Petitioner,
Donald Eugene Bailey

ESPY, SCOGIN, CAIN AND HAMBY, P.C.

2728 8th Street

Tuscaloosa, AL 35401

Telephone: (205) 758-5591

Facsimile: (205) 758-2801

Email: Scogin.law@gmail.com

EXHIBITS TO PETITION

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2. **Exhibit “B”** – Map/Plat of Myrtlewood Heights, Tuscaloosa, Alabama, recorded in Plat Book 4, Page 105 in the Probate Office of Tuscaloosa County, Alabama;
3. **Exhibit “C”** – Photographs of the Subject Property depicting its current condition, its character as ordinary residential rental housing, its location adjacent to apartment complex and multi-family housing, its frontage on Paul W. Bryant Drive rather than Myrtlewood Drive, and contrasting the Subject Property from homes in the interior of the Myrtlewood Heights subdivision.

EXHIBIT "A"
WARRANTY DEED FOR SUBJECT PROPERTY

This instrument was prepared by
Michael J. Cartee
Shelby and Cartee, Attorneys at Law
2210 8th Street, Suite B, Tuscaloosa, Alabama 35401
Form 1-1-6 Rev. 8-70
WARRANTY DEED - LAWYERS TITLE INS. CORP., BIRMINGHAM, ALABAMA

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STATE OF ALABAMA)
) KNOW ALL MEN BY THESE PRESENTS,
COUNTY OF Tuscaloosa)

That in consideration of Ten Dollars and other good and valuable consideration to the undersigned grantor Mainstreet Investments, L.L.C.

in hand paid by Donald Eugene Bailey

the receipt of which is hereby acknowledged, the said Mainstreet Investments, L.L.C.

does by these presents, grant, bargain, sell and convey unto the said Donald Eugene Bailey

the following described real estate situated in Tuscaloosa County, Alabama, to-wit:

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This conveyance is hereby made subject to restrictive covenants, rights of way easements and reservations of record that apply to the hereinabove described real property.

TO HAVE AND TO HOLD To the said Donald Eugene Bailey

his successors and assigns forever.

And said Mainstreet Investments, L.L.C.

does for itself, its successors and assigns, covenant with said Donald Eugene Bailey

his successors and assigns, that it is lawfully seized in fee simple of said premises, that they are free from all encumbrances unless otherwise noted above, that it has a good right to sell and convey the same as aforesaid, and that it will, and its successors and assigns shall, warrant and defend the same to the said Donald Eugene Bailey

his successors and assigns forever, against the lawful claims of all persons.

Exhibit "A"

LEGAL DESCRIPTION (continued)

State of Alabama.

SOURCE OF TITLE: Deed Book 2002 Page 4581; Deed Book 2002 Page 4750

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IN WITNESS WHEREOF, the said Mainstreet Investments, L.L.C.,
a limited liability company, by its Member Chad Gore, who
is authorized to execute this conveyance, has hereto set its signature and seal this the
8th day of November, 2002.

Mainstreet Investments,
L.L.C.

By: [Signature] (SEAL)
Chad Gore
Its: Member

STATE OF ALABAMA)
)
Tuscaloosa COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said
State, hereby certify that Chad Gore whose name as Member
of Mainstreet Investments, L.L.C., is signed to the
foregoing conveyance, and who is known to me, acknowledged before me on this day,
that, being informed of the contents of the conveyance, he, as such Member
and with full authority, executed the same voluntarily for and as the act of said
limited liability company.

Given under my hand and official seal this 8th day of November A.D., 2002.

[Signature]
NOTARY PUBLIC

My commission expires:

01 30 03

2002 19906
Recorded in the Above
DEED Book & Page
11-12-2002 09:40:49 AM
Source Of Title: 2002 / 4581
W. Hardy McCollum - Probate Judge
Tuscaloosa County, Alabama
Book/Pg: 2002/19904
Term/Cashier: SCAN2 / HazelN
Tran: 3785.299993.333642
Recorded: 11-12-2002 09:41:13
DFE Deed Tax 119.00
PJF Probate Judge Fee 2.00
REC Recordings Fee 8.50
SOT Source of Title 1.25
Total Fees: \$ 130.75

EXHIBIT "B"
SUBDIVISION PLAT FOR MYRTLEWOOD HEIGHTS

State of Alabama
Tuscaloosa County

I, Woolsey Firmell, Judge of Probate in and for said County and said State hereby certify that, W.H. Hargrove, G.W. Salley, Clara Verner, Mary Verner and John Verner whose names are signed to the foregoing certificate, and who are known to me, acknowledged before me on this day, that being informed of the contents of the said certificate, they executed the same voluntarily on the day same bears date.

Given under my hand this the 31st day of July 1926

Woolsey Firmell
Judge of Probate

MAP OF
MYRTLEWOOD HEIGHTS

Tuscaloosa, Alabama.
W. H. Nicol, Civil Engineer
July 26 1926 Scale 1 inch to 30 feet.

State of Alabama
Tuscaloosa County
I, W.H. Nicol, Civil Engineer of Tuscaloosa, Alabama, do hereby certify that this map is a true and correct map of a survey of Myrtlewood Heights in the County and City of Tuscaloosa, State of Alabama, and in Section 23, Township 21 South, Range 10 West as shown by the measurements and bearings thereon;

And We, the undersigned W.H. Hargrove and G.W. Salley owners of Lots 1 to 7, and Lots 18 to 24 inclusive, and we the undersigned Clara Verner, Mary Verner and John Verner owners of Lots 8 to 17 inclusive as shown by said map, do hereby certify that we accept said survey in accordance with the provisions of Article 2 Page 1430 of the Code of Alabama.

Given under our hand this day July 1926

W.H. Nicol
Civil Engineer

W. H. Hargrove
G. W. Salley
Clara Verner
Mary Verner
John Verner
OWNERS

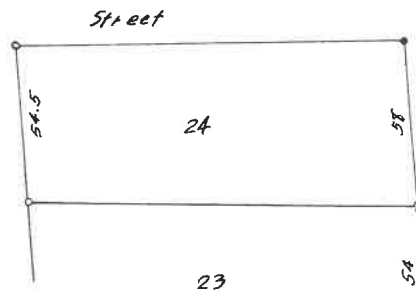
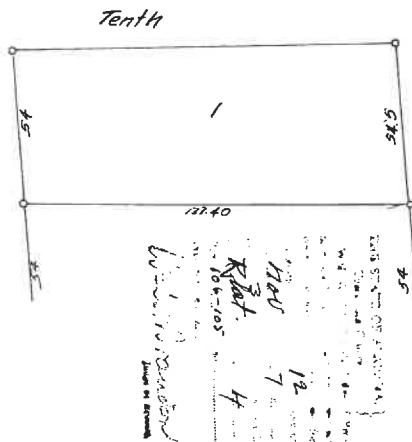
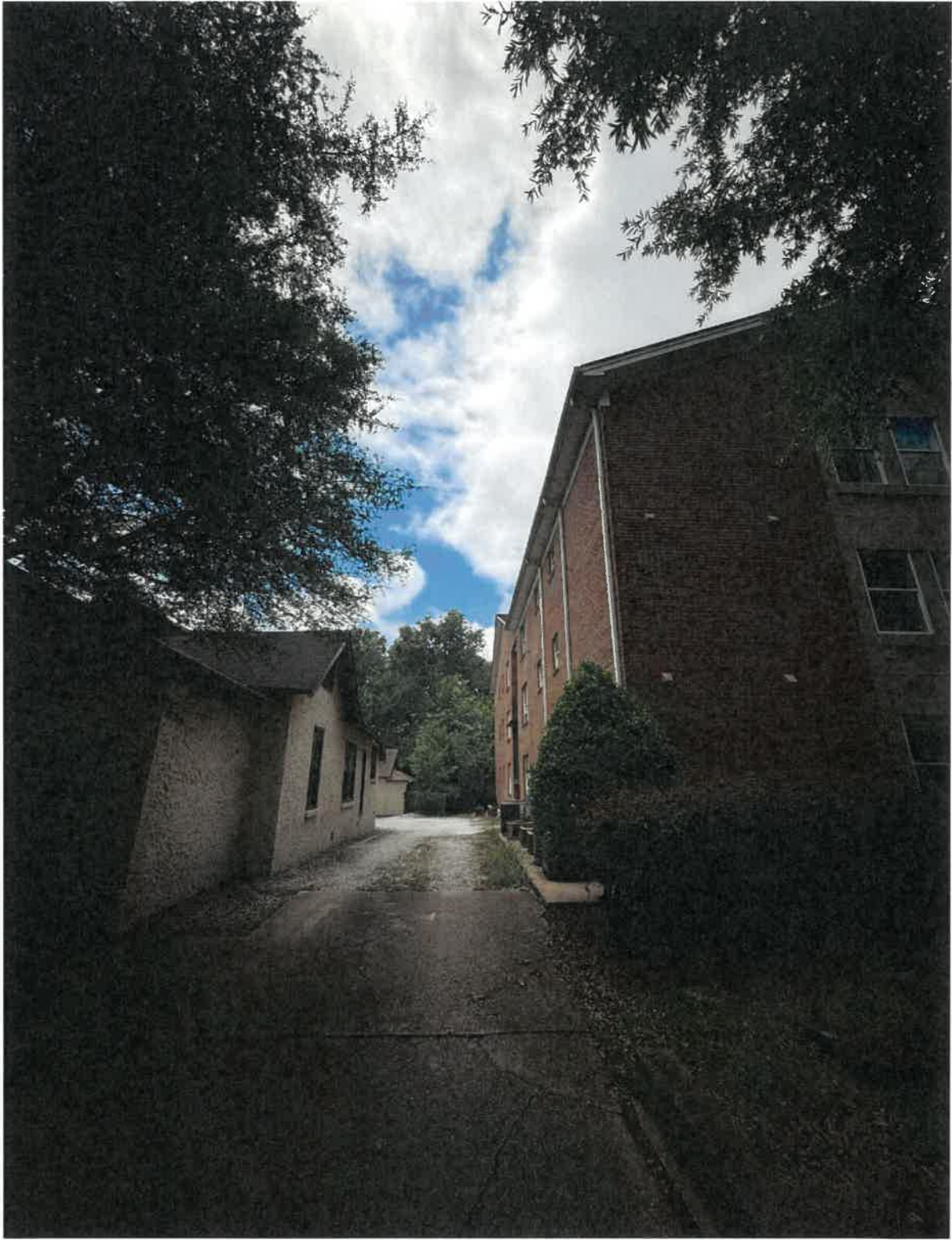


EXHIBIT "C"
PHOTOGRAPHS OF SUBJECT PROPERTY
AND
MYRTLEWOOD HEIGHTS



Facing Subject Property from Paul W. Bryant Drive



Gravel Driveway between the Subject Property and Bryant Drive Apartments



Facing Paul W. Bryant Drive and Bryant Row Apartments from Subject Property



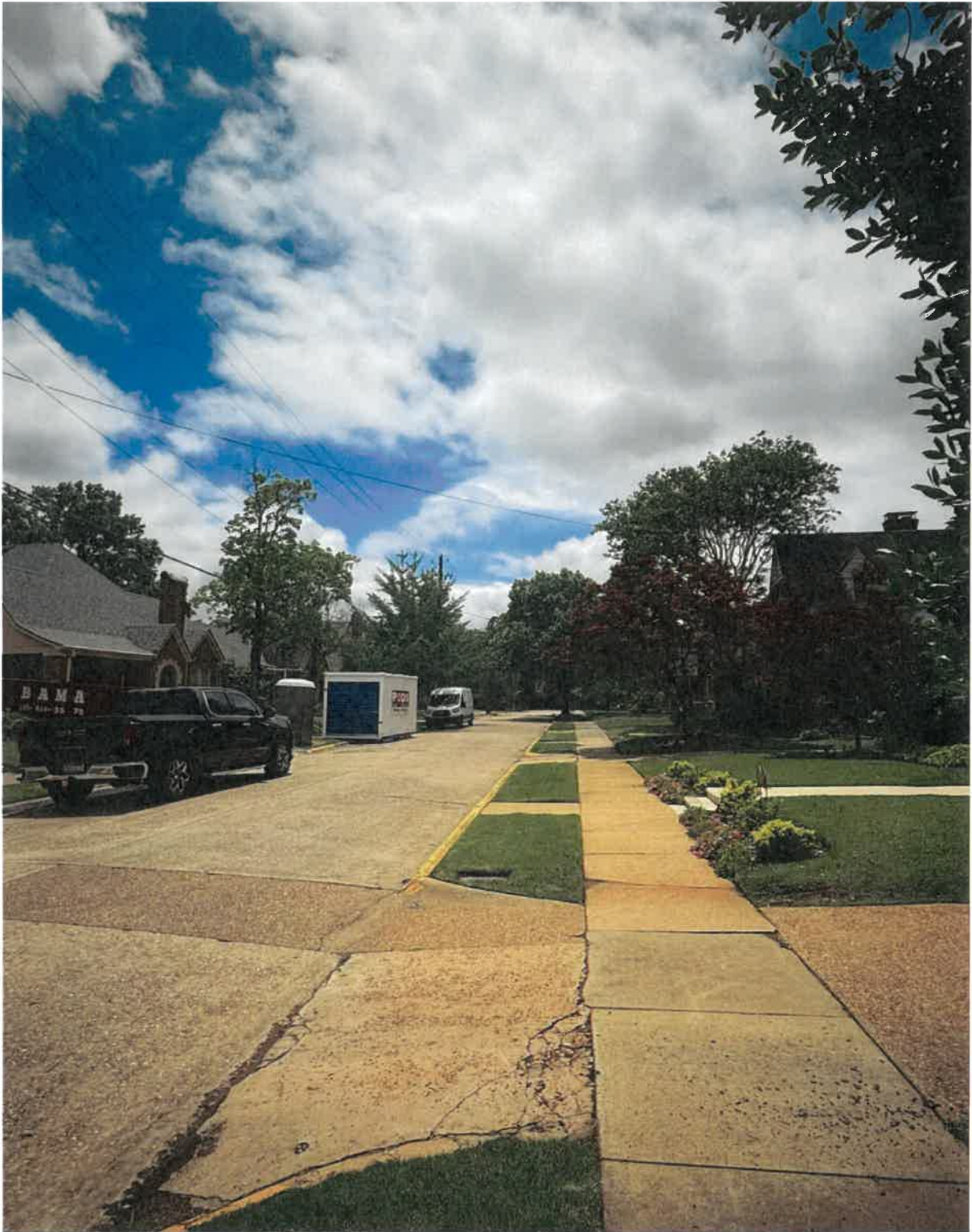
Facing Bryant Drive Apartments from Subject Property



Facing West on Paul W. Bryant Drive from the Subject Property



Facing West on Paul W. Bryant Drive from the Subject Property



Facing Interior of Myrtlewood Heights Subdivision from Subject Property



Interior of Myrtlewood Heights Subdivision



Interior of Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision



Interior Home in Myrtlewood Heights Subdivision

EXHIBIT "D"

CERTIFICATION FOR OCCUPANCY

City of Tuscaloosa

COUNCIL
BOBBY E. HOWARD
District 1
HARRISON L. TAYLOR
District 2
President Pro-Tem
CYNTHIA LEE ALMOND
District 3
LEE GARRISON
District 4

POST OFFICE BOX 2089
TUSCALOOSA, ALABAMA 35403
Web Site Address: www.ci.tuscaloosa.al.us

WALTER MADDOX
Mayor

COUNCIL
KIP TYNER
District 5
BOB LUNDELL
District 6
WILLIAM TINKER III
District 7

October 17, 2005

Mr. Donald Bailey
5318 Rice Mine Road NE
Tuscaloosa, AL 35406

RE: 1501, 1505, 1507 Paul W. Bryant Dr.

Dear Mr. Bailey:

This letter is to confirm that the properties listed below are registered with the City of Tuscaloosa Community Planning and Development Department. The properties can continue to be occupied by three unrelated persons as it is stated in ordinance 24-43 of the City of Tuscaloosa Code.

1501 Paul W. Bryant Dr. Tax Parcel ID: 31-06-23-3-005-019.000
1505 Paul W. Bryant Dr. Tax Parcel ID: 31-06-23-3-005-020.000
1507 Paul W. Bryant Dr. Tax Parcel ID: 31-06-23-3-005-021.000

John McConnell



Zoning Inspector

COMMUNITY PLANNING AND DEVELOPMENT DEPARTMENT
(205) 349-0160
FAX (205) 349-0135

WILLIAM L. SNOWDEN, AICP
DIRECTOR

EVELYN K. YOUNG, AICP
ASSOCIATE DIRECTOR