

# CITY OF HOUSTON

HISTORIC PRESERVATION APPEALS BOARD  
PLANNING & DEVELOPMENT DEPARTMENT

Meeting Date: /13/2021

**ITEM: III**

**APPLICANT:** Clayton Mealer, owner

**PROPERTY ADDRESS:** 215 Bayland St

**LEGAL DESCRIPTION:** Tracts 23 & 24, Block 4, Woodland Heights Subdivision

**HISTORIC DISTRICT:** Woodland Heights Historic District

## **Project Summary:**

On July 29, 2021 HAHC meeting, the applicant requested a Certificate of Appropriateness (COA) for the installation of solar panels located on the south, west, and east sides of the roof; all visible from the right of way.

The work was completed without a COA or city permits prior to applying to the HAHC.

At their July 2021 meeting, the Houston Archaeological and Historical Commission (HAHC) reviewed the applicant's request for a Certificate of Appropriateness, accepted the application with conditions; that the applicant remove the solar panels located on the front south location and the south east locations.

In accordance with Chapter 33 Section 33-253, the applicant is appealing the decision. The applicant requests a reversal of the decision from the HAHC to the Historic Preservation Appeals Board (HPAB). Applicant seeks a modification of the COA with conditions in order to keep the work already completed.

We have also received public comment.

## **Charge to the Historic Preservation Appeals Board:**

According to Section 33-253. (c):

"The HPAB shall reverse or affirm the decision of the HAHC based upon the criteria applicable to the certificate of appropriateness."

## **Property Description:**

Contributing Queen Anne residence, constructed circa 1903 with a two-story rear addition.

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### Exhibits:

- A. Action report from HAHC meeting of July 29, 2021
- B. Unofficial Transcript of HAHC meeting of July 29, 2021
- C. Draft minutes of July 29, 2021 meeting of the HAHC
- D. Public Comment

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## Criteria of Approval:

### ADMINISTRATIVE APPROVALS

Sec. 33-241.1(c): The director is authorized to issue a certificate of appropriateness for the following activities if the director finds that the proposed activity will be performed in a manner that satisfies the criteria for alterations, additions, or new construction in this article, as applicable. If the director finds that an application for a certificate of appropriateness pursuant to this subsection does not satisfy the applicable criteria, or that the application does not satisfy the general intent and purposes of this article, the director shall refer the application to the HAHC for consideration.

<b>A</b>	<b>NA</b>		<b>A - applies</b>	<b>NA - not applicable</b>
		(4) Installation of:		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	a. Burglar bars		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	b. Accessibility ramps or lifts		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c. Low-profile skylights, shutters, solar panels, antennae, satellite dishes, or other roof equipment installed on the front half of the roof; and		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	d. Awnings and canopies;		

### ALTERATIONS, REHABILITATIONS, RESTORATIONS AND ADDITIONS

Sec. 33-241: HAHC shall issue a certificate of appropriateness for the alteration, rehabilitation, restoration or addition of an exterior feature of (i) any landmark, (ii) protected landmark, (iii) any building, structure or object that is part of an archaeological site, or (iv) contributing building in a historic district upon finding that the application satisfies the following criteria, as applicable:

<b>S</b>	<b>D</b>	<b>NA</b>		<b>S - satisfies</b>	<b>D - does not satisfy</b>	<b>NA - not applicable</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(1) The proposed activity must retain and preserve the historical character of the property; <i>Solar panels are visible from the right of way, therefore, do not meet Criteria 1.</i>			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(2) The proposed activity must contribute to the continued availability of the property for a contemporary use;			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(3) The proposed activity must recognize the building, structure, object or site as a product of its own time and avoid alterations that seek to create an earlier or later appearance; <i>Solar panels are visible from the right of way, therefore, do not meet Criteria 3.</i>			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(4) The proposed activity must preserve the distinguishing qualities or character of the building, structure, object or site and its environment; <i>Solar panels are visible from the right of way, therefore, do not meet Criteria 4.</i>			
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	(5) The proposed activity must maintain or replicate distinctive stylistic exterior features or examples of skilled craftsmanship that characterize the building, structure, object or site;			

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- (6) New materials to be used for any exterior feature excluding what is visible from public alleys must be visually compatible with, but not necessarily the same as, the materials being replaced in form, design, texture, dimension and scale;  
*Solar panels are visible from the right of way, therefore, do not meet Criteria 6.*
- (7) The proposed replacement of exterior features, if any, should be based on an accurate duplication of features, substantiated by available historical, physical or pictorial evidence, where that evidence is available, rather than on conjectural designs or the availability of different architectural elements from other structures;
- (8) Proposed additions or alterations must be done in a manner that, if removed in the future, would leave unimpaired the essential form and integrity of the building, structure, object or site;
- (9) The proposed design for any exterior alterations or addition must not destroy significant historical, architectural, archaeological or cultural material, including but not limited to siding, windows, doors and porch elements;
- (10) The proposed alteration or addition must be compatible with the massing, size, scale material and character of the property and the context area; and
- (11) The distance from the property line to the front and side walls, porches, and exterior features of any proposed addition or alteration must be compatible with the distance to the property line of similar elements of existing contributing structures in the context area.

## Applicant's Grounds for Appeal:

Environmental concerns.

Exhibits:

1. Action report from HAHC meeting of July 29<sup>th</sup>, 2021
2. Unofficial Transcript of HAHC meeting of July 29<sup>th</sup>, 2021
3. Draft minutes of July 29<sup>th</sup>, 2021 meeting of the HAHC

## City of Houston Code of Ordinances, appeal of decisions of the HAHC:

### **Sec. 33-253. Appeal.**

- (a) The Historic Preservation Appeals Board ("HPAB") is hereby created. The HPAB shall consist of 5 members and shall consist of two former members of the planning commission, two former members of the HAHC, and one citizen representative that has not served on either commission. Each member shall have extraordinary knowledge and experience in the archaeological, architectural, cultural, social, economic, ethnic or political history of the city, and must have a known and demonstrated interest, competence, or knowledge in historic preservation within the city. Members of the HPAB shall be appointed by the mayor, subject to confirmation by the city council. Each member

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shall serve for a term of two years and shall hold over until the member's successor is appointed. A member may be appointed to serve consecutive terms. The director, or in his absence or inability to act, a deputy director or assistant director of the department shall serve as a non-voting, ex officio member and as executive secretary to the HPAB. Three members of the HPAB shall constitute a quorum; however, in the event of vacancies on the HPAB, a majority of the members of the HPAB shall constitute a quorum. The HPAB shall elect its own chair and vice-chair. The mayor shall assign a staff member to serve as a liaison between the HPAB and the mayor's office. The HPAB shall adopt rules, procedures, and schedules for meetings as are necessary or convenient to accomplish the purposes of this article, and shall meet as needed when notified by the director of an appeal from a decision of the HAHC.

- (b) An applicant aggrieved by a decision of the HAHC with respect to any certificate of appropriateness may appeal to the HPAB by filing a written notice of appeal, stating the grounds for the appeal, with the director within ten days following the date the HAHC renders its decision, or in the case of an application for a certificate of appropriateness for demolition, the notice of appeal may be filed with the director not earlier than 90 days after the denial of a certificate of appropriateness by the HAHC as provided for in section 33-247(f) of this Code and not later than 120 days after the denial by HAHC. The director shall notify the members of the HPAB of the receipt of a notice of appeal and shall schedule a meeting of the HPAB to consider the appeal.
- (c) The HPAB shall consider the appeal within 45 days after a notice of appeal is filed with the director. The HPAB shall consider the application, the findings of the HAHC, written comments from the public, and any evidence presented at the meeting at which the appeal is considered. The HPAB shall reverse or affirm the decision of the HAHC based upon the criteria applicable to the certificate of appropriateness. If the HPAB does not make a decision on the appeal within 45 days after a notice of appeal is filed with the director, the decision of the HAHC with respect to the application for the certificate of appropriateness shall be deemed affirmed.
- (d) The director shall provide the applicant with notice of the time and place of the meeting at which each appeal will be considered by mail no less than ten days before the date of the meeting.
- (e) An applicant aggrieved by a decision of the HPAB may appeal to the city council. The city council shall consider the appeal at its first regularly scheduled meeting for which the required notice can be given. The city council shall consider the appeal under the provisions of Rule 12 of section 2-2 of this Code. At the conclusion of the city council's review of the matter, the city council shall reverse or affirm the decision of the HPAB. The decision of the city council shall be final and exhaust the applicant's administrative remedies.

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## Exhibit A:

July 29, 2021 Action Report  
(Including Project Details and Staff Analysis)

Houston Archaeological & Historical Commission  
July 29, 2021  
HPO File No. 2021\_0163

ITEM E20  
215 Bayland Ave  
Woodland Heights

### CERTIFICATE OF APPROPRIATENESS

**Applicant:** Michael Pensabene, agent for Clayton Mealer, owner

**Property:** 215 Bayland Ave, Tracts 23 & 24, Block 4, Woodland Heights Subdivision. The property includes a historic 5,772 square foot two-story wood frame single-family residence situated on a 8,000 square foot (100' x 80') corner lot.

**Significance:** Contributing Queen Anne residence, constructed circa 1903, with a two-story rear addition located in the Woodland Heights Historic District.

**Proposal:** Alteration—Installation of solar panels without a COA or city permits.

- The solar panels installed are 19.3 kw roof mounted PV solar system.
- Solar panels are installed on the south, west, and east sides of the roof.
- Solar panels are visible from the right of way.

**Public Comment:** No public comment received.

**Civic Association:** No comment received.

**Recommendation:** Approval with conditions: Staff recommends issuance of a COR to remove the solar panels located on the front south location and the front east location.

**HAHC Action:** Approved with Conditions: Staff recommends issuance of a COR to remove the solar panels located on the front south location and the front east location.

*All materials in exterior walls, including windows, siding, framing lumber, and interior shiplap must be retained except where removal or replacement has been explicitly approved by HAHC. Shiplap is an integral structural component of the exterior wall assembly in balloon framed structures and its removal can cause torquing, twisting and collapse of exterior walls. Shiplap may be carefully shored and removed in small portions to insulate, run wire or plumbing, and should be replaced when the work is complete. Maintenance and minor in-kind repairs of exterior materials may be undertaken without HAHC approval, but if extensive damage of any exterior wall element is encountered during construction, contact staff before removing or replacing the materials. A revised COA may be required.*

### CERTIFICATE OF APPROPRIATENESS

**Basis for Issuance:** HAHC Approval  
**Effective:** July 29, 2021



PLANNING &  
DEVELOPMENT  
DEPARTMENT

COA valid for two years from effective date. COA is in addition to any other permits or approvals required by municipal, state and federal law. Permit plans must be stamped by Planning & Development Department for COA compliance prior to submitting for building or sign permits. Any revisions to the approved project scope may require a new COA.

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Houston Archaeological & Historical Commission

July 29, 2021

HPO File No. 2021\_0163

ITEM E20

215 Bayland Ave  
Woodland Heights

## APPROVAL CRITERIA

### ADMINISTRATIVE APPROVALS

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A	NA		A - applies	NA - not applicable
		(4) Installation of:		
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<input checked="" type="checkbox"/>	<input type="checkbox"/>	c. Low-profile skylights, shutters, solar panels, antennae, satellite dishes, or other roof equipment installed on the front half of the roof, and		
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- (8) Proposed additions or alterations must be done in a manner that, if removed in the future, would leave unimpaired the essential form and integrity of the building, structure, object or site;
- (9) The proposed design for any exterior alterations or addition must not destroy significant historical, architectural, archaeological or cultural material, including but not limited to siding, windows, doors and porch elements;
- (10) The proposed alteration or addition must be compatible with the massing, size, scale material and character of the property and the context area; and
- (11) The distance from the property line to the front and side walls, porches, and exterior features of any proposed addition or alteration must be compatible with the distance to the property line of similar elements of existing contributing structures in the context area.

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Meeting Date: /13/2021

## ITEM: III

**APPLICANT:** Clayton Mealer, owner

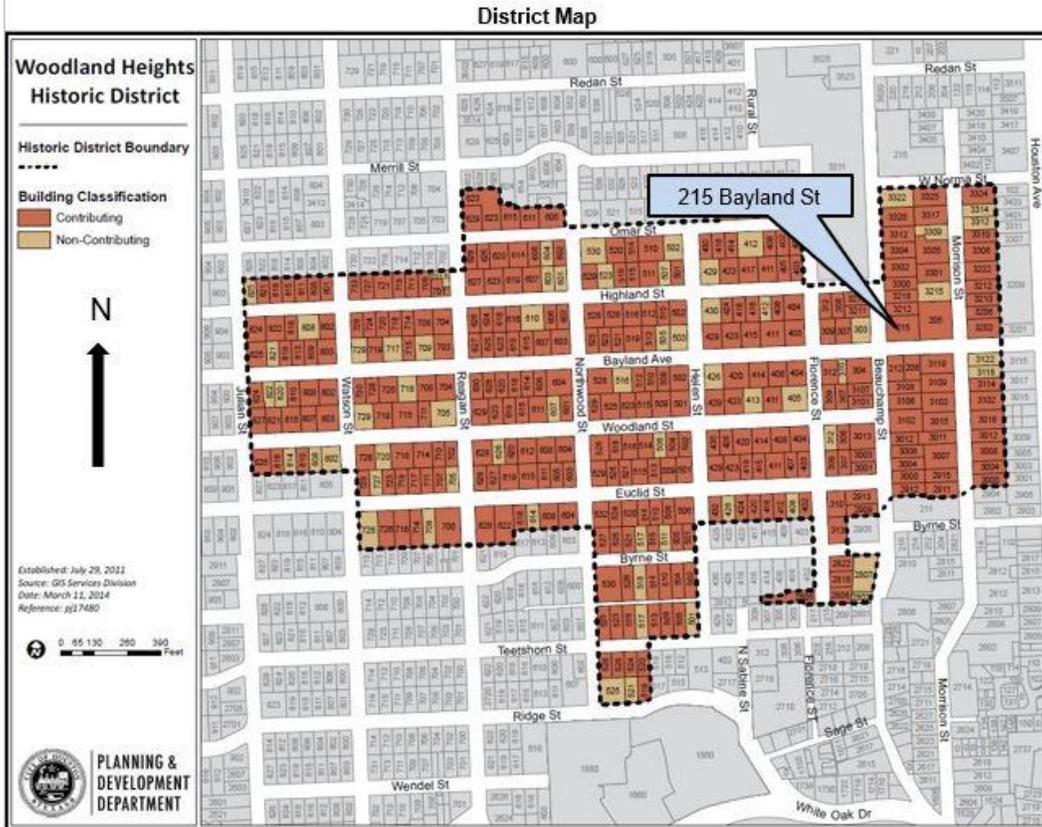
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Houston Archaeological & Historical Commission  
July 29, 2021  
HPO File No. 2021\_0163

ITEM E20  
215 Bayland Ave  
Woodland Heights



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Houston Archaeological & Historical Commission

July 29, 2021

HPO File No. 2021\_0163

ITEM E20

215 Bayland Ave  
Woodland Heights

Inventory Photograph



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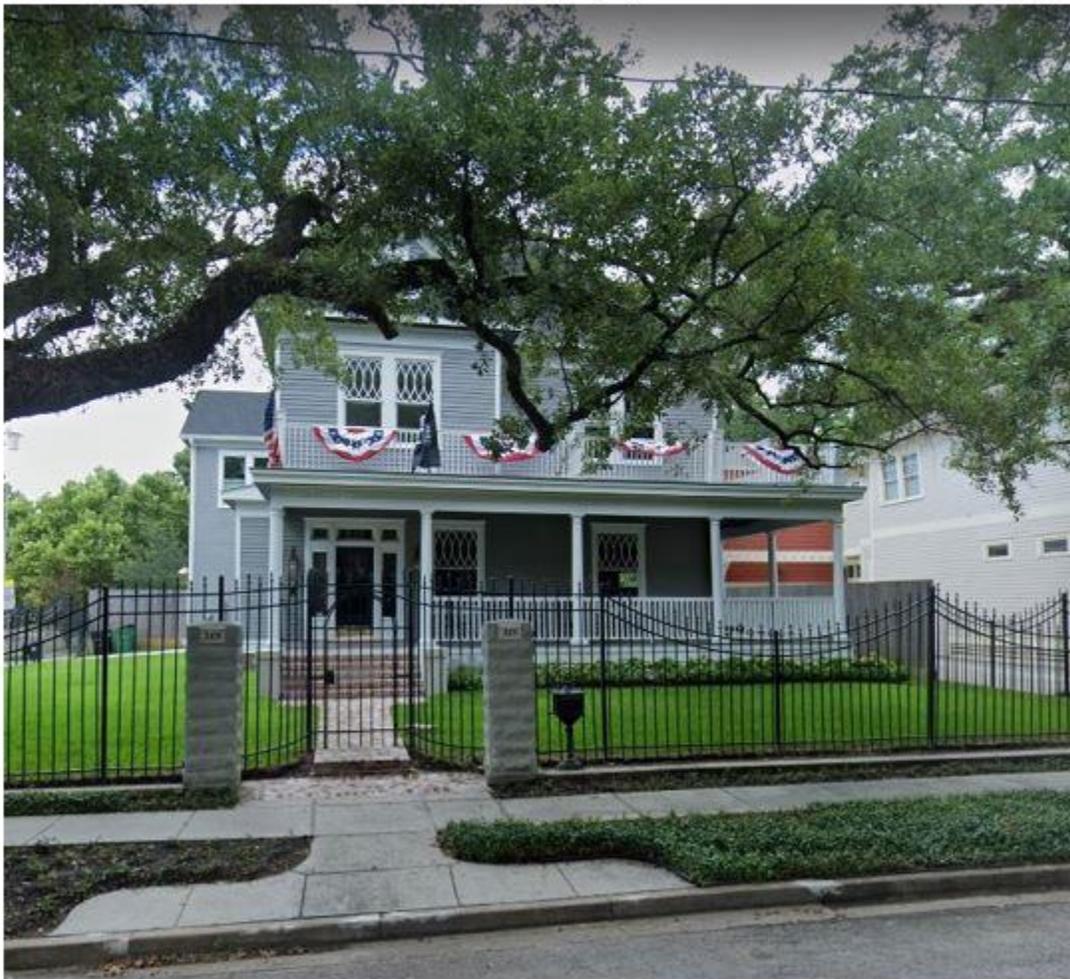
July 29, 2021

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ITEM E20

215 Bayland Ave  
Woodland Heights

Current Photograph



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Houston Archaeological & Historical Commission

July 29, 2021

HPO File No. 2021\_0163

ITEM E20

215 Bayland Ave  
Woodland Heights

## Work Completed



Front of house (facing south)

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Houston Archaeological & Historical Commission

July 29, 2021

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ITEM E20

215 Bayland Ave  
Woodland Heights

## Work Completed



Side of house (east side)

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Houston Archaeological & Historical Commission

July 29, 2021

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ITEM E20

215 Bayland Ave  
Woodland Heights

## Work Completed



Side of house (west side)

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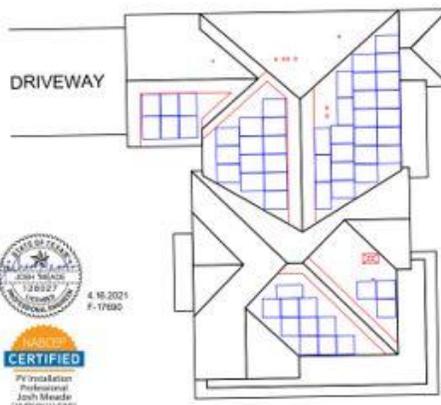
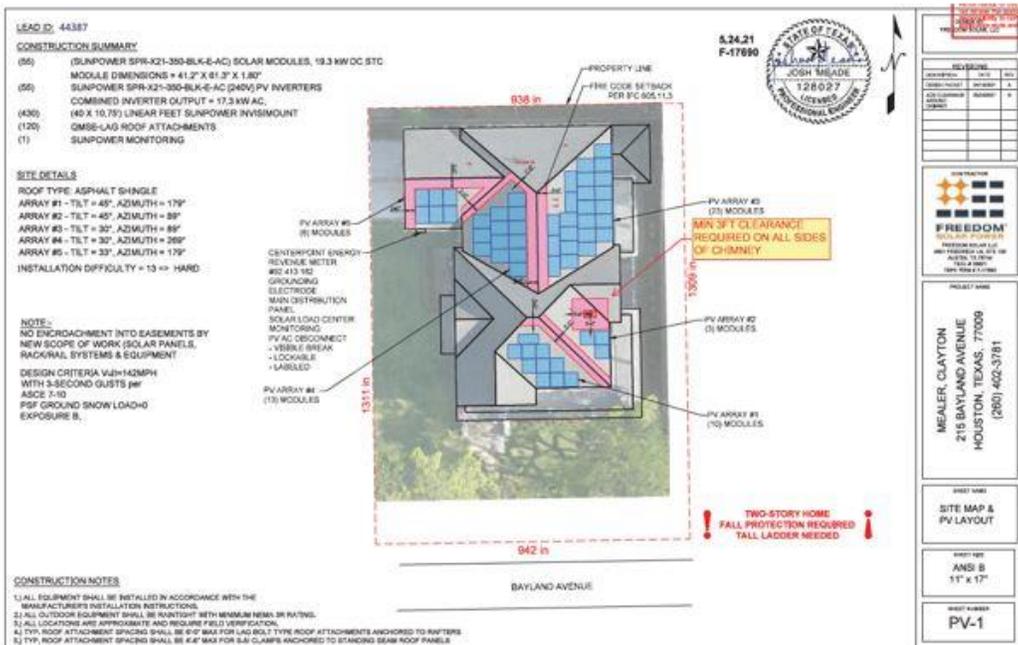
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ITEM E20  
215 Bayland Ave  
Woodland Heights

### Site Plan



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## Exhibit B:

### Unofficial Transcript of HAHC Meeting of July 29<sup>th</sup> 2021

July 29, 2021 HAHC Unofficial Transcript of Discussion of Item E.20

215 Bayland Street – Woodland Heights Historic District

**Staff member Madeleine Mayhan:** Item E.20 is 215 Bayland and it is a contributing building in the Woodland Heights Historic District. Applicant has installed solar panels on the front south, front east, back east and back west sides of the roof without a COA or a city permit. Staff recommends approval with conditions. Staff recommends the issuance of a COR to remove the solar panels located on the front south and front east locations and approval of the solar panels located on the back portion of the roof.

**Chair Minnette Boesel:** Thank you. Are there any questions of staff?

**Commissioner Steve Curry:** The back portion of the roof – the panels that are recommended for approval – are those visible from the street at any point?

**Staff member Mayhan:** Yes, all panels are visible from the street. It's a corner property.

**Chair Boesel:** It is a requirement to get a permit to install solar panels in general, is that not correct?

**Staff member Mayhan:** Yes.

**Chair Boesel:** So, I just wonder – because there was not a permit for the installation – what happens when you don't apply for a permit for installation regardless of the historic designation.

**Staff member Mayhan:** I believe they paid the double permitting fee.

**Chair Boesel:** I guess we can ask the owner. Hopefully there's someone present.

**Owner:** Hi, yes, this is the homeowner if you want me to answer as best I can on that.

**Chair Boesel:** Great, sir if you would state your name and spelling.

**Owner:** It's Clayton Mealer.

**Chair Boesel:** Thank you for being here. It's a gorgeous, beautiful home.

**Owner:** Thank you very much. I'll try to answer the permitting question. Freedom Solar is the company doing this. As I understood it, they got the permits from the city to install it but I guess they weren't stamped or finalized because it was a historic district, that was the issue, so they had to get this approval first before they got the final permit from the city. But they had some sort of permit that they showed me but it was not finalized.

**Chair Boesel:** Ok, thank you.

**Staff member Mayhan:** I have a comment to add to that. Actually, they did not have any city permits. What they thought they had was just a stamp of approval from structural and electrical that they could apply for a permit. We were contacted by the city permit department to release a hold to sell them a permit but the work had already been done so we did not release the hold to sell them a permit.

#### Exhibits:

- A. Action report from HAHC meeting of July 29, 2021
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# CITY OF HOUSTON

HISTORIC PRESERVATION APPEALS BOARD  
PLANNING & DEVELOPMENT DEPARTMENT

Meeting Date: /13/2021

**ITEM: III**

**APPLICANT:** Clayton Mealer, owner

**PROPERTY ADDRESS:** 215 Bayland St

**LEGAL DESCRIPTION:** Tracts 23 & 24, Block 4, Woodland Heights Subdivision

**HISTORIC DISTRICT:** Woodland Heights Historic District

**Chair Boesel:** Ok, thank you. Commissioners, are there any other questions of our owner speaker? (No response) For our speaker, do you have any other comments you would like to make?

**Commissioner Dominic Yap:** I have a question for the owner. Regardless of permitting, my concern here is that you have panels on the front that are very visible to the façade of the house. Are there any plans for you to actually mitigate this and move everything to the back of the house or to the least viewable part of the house?

**Owner:** Well, somewhat. We can't move panels anywhere. We've essentially used as much roof space as we can so there's nowhere else to put them. You can't put them on the north side because there's not enough solar radiation north since we're in the northern hemisphere. We weren't completely not paying attention here. You'll notice there are no panels on the southwest part of the historic home because those are highly visible from the street on the historic part of the home. The ones in the front and southeast – the southeast ones are very hard to see and the south ones are pretty hard to see unless you're right up on the sidewalk and looking up. I think staff's pictures actually do a fair job of showing what it looks like from the street and sidewalk views. So we thought it was relatively well mitigated from the front and the southeast.

**Commissioner Yap:** Ok, thank you.

**Chair Boesel:** Any other questions for our speaker? (No response) Any questions for staff?

**Commissioner Yap:** If staff could put back the recommendation [slide]...

**Staff member Mayhan:** The recommendation is shown on the screen.

**Chair Boesel:** Would you read it out, please?

**Staff member Mayhan:** Staff recommends approval with conditions: the issuance of a COR to remove the solar panels located on the front south and front east sides of roof and approval to keep the solar panels located on the back portion of the roof.

**Chair Boesel:** That's not written into your narrative there. Does that need to be added?

**Staff member Mayhan:** It shows on the first slide the second part of that condition.

**Owner:** I don't know if I get a couple minutes to address the commission. I was answering questions but I did want to highlight a couple points.

**Chair Boesel:** Go ahead, sir.

**Owner:** Thank you very much. I appreciate everyone's time and I'll try to be brief here. To cover our approach to this, we understand it's a historic home and we're trying to minimize our impact to the structure. We tried balancing that by getting black solar panels to go on a black asphalt shingle roof. We looked at putting them on the sides where there are large, mature trees or facing neighbors for a high portion. It's a 48-foot-high roof. We viewed the solar panels as a modern 21<sup>st</sup> century utility. This is how electricity will be run in the future with the distributed residential solar. This is simply augmenting the historic home. The panels are removable and they last 20 to 25 years, kind of like a shingle really. When we tried to get this design on the roof, we were trying to offset our energy usage. It currently offsets about 94 percent. I think removing all the panels we're discussing here will put us down in the 60 to 65

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percent range, which really limits the impact. Part of how we were thinking about this is I know Houston's got quite a few stated goals for climate impact and being carbon neutral by 2050 based on the mayor's plan there for the climate action plan. That was part of what was driving our goal here to minimize our environmental impact and offset as much of our energy usage as we could. We're trying to be as much of the solution as we can and that really fed into our approach. I won't drag on any longer but that's where we were at when we took this on.

**Commissioner Elizabeth Wiedower Jackson:** I would just like to applaud the homeowner for your thinking there. I think the point he just made about the panels being removable and not permanently altering the character of the home is something that I would encourage my fellow commissioners to take into consideration.

**Chair Boesel:** Thank you. Do we have any other comments?

**Commissioner Curry:** I agree with Commissioner Wiedower Jackson. Mr. Mealer, you make good points. You knew you were in a historic district?

**Owner:** Yes, I did.

**Commissioner Curry:** Did you realize that these issues were relevant to the maintenance of the historic district?

**Owner:** Yes, I specifically talked to the company doing the installation and said, "Hey, we're in a historic district and there's special rules that apply." And they said, "No problem. We've worked in Houston historic districts."

**Commissioner Curry:** So you trusted your contractor.

**Owner:** Yeah, we did.

**Commissioner Curry:** Just for your sake, I wish you had been able to make those good points and make your case prior to this very elaborate and thoughtful installation, which we're about to vote on. I wish it had been the other way around.

**Owner:** Yes, sir. Fully appreciate your point there.

**Chair Boesel:** I think there's someone talking in the background. Can you hear me?

**Staff member Terrance Jackson:** We've muted that person, madam chair.

**Chair Boesel:** Commissioners, are there any other questions of our speaker or staff?

**Commissioner Yap:** I'm still a little confused about the recommendation. If you could put the recommendation back.

**Chair Boesel:** That's not the full recommendation there. It's on the proposed first page.

**Commissioner Yap:** Ok so where my confusion is – so this project is done without a COA or city permits, as far as recognized. So why is there an approval with conditions? Number one, I think we just have to deny them a COA and then issue a COR, but what does this approval with conditions mean?

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**Staff member Mayhan:** It means we partially approve of a COA that they would have been granted, so we partially approved the solar panels on the back portion of the roof but we want staff to be able to issue a COR to remove the panels on the front portion of the roof.

**Historic Preservation Officer Roman McAllen:** I'd also like to add a point. To Commissioner Yap's point, I'm not 100 percent sure always how the COR works but as the director points out, often we will do a COR as it relates to historic material. Director Brown, if you're on here, perhaps you'll come in. But in this case we're just dealing with a roof. We talked about this pretty robustly when we were talking about this item. I always like to say every roof in Houston, Texas, is temporary whether its got solar on it, slate on it, shingles on it, cedar shake on it. Rooves come and go in Houston. Frankly, we went back and forth about this but there is an exemption for the COA. No COA is needed for the rear half, but a COA is needed for the front half. In this case, it was brought to commission rather than an administrative approval and that's where we are.

**Director Margaret Wallace-Brown:** I can elaborate on what he said. So had the applicant not done the work in advance and come to the city asking for a COA for the solar panels, those on the rear half of the building were exempt from any COA. Those on the front half could have been approved administratively. That's not how this worked. So they are coming to us after the fact, asking for a COA and what we are recommended is that we approve the COA in the way we would have approved it had they come in advance and that we ask you to issue a certificate of remediation to remediate the damage to the historic structure on the front piece and take those off. Does that make sense?

**Commissioner Urmila Srinivasan:** I do understand your point, director. What I would like to understand is that you said if they came for approval prior to installation, the south portion would have been administratively approved?

**Director Wallace-Brown:** So I'm looking at the image now and I'm having trouble remembering – I think the south is the back.

**Commissioner Srinivasan:** The south is like the base of the plan, I guess?

**Owner:** That's correct. The south is the bottom and that faces [unclear 2:17:52] the house.

**Director Wallace-Brown:** So solar panels are exempt from a COA...I'm looking up exactly where it is. Can someone point me...Roman, do you have it exactly where it is?

**Preservation Officer McAllen:** Under exemptions, we are...

**Director Wallace-Brown:** Yes, under 237. So exemptions... "a certificate of appropriateness is not required for ordinary maintenance and repair or for the alteration, rehabilitation, restoration or construction of the following." And it lists the removal of burglar bars, satellite dishes and antennas, solar panels, free standing signs and accessibility ramps or the installation of solar panels...on the rear half of the roof. So the rear half of the roof is exempt from a COA at all. Then when you go to the COAs that are approved administratively, Section 241.1, the director may issue a certificate of appropriateness for – and I'm looking for specifically what that language is – "installation of burglar bars, accessibility ramps, low profile skylights, shutters, and solar panels installed on the front half of the roof." So had they come before they did construction, this would never have come before commission. But we believed it was something you needed to see because the process was not followed. Now, historically,

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this commission has approved certificates of appropriateness. A few years ago, [unclear audio from poor internet connection, 2:20:00] we would bring items to you [unclear] and you would consider them. And if they were reasonable, if the work done met the criteria and the code, you would approve the COA. We instituted certificates of remediation in 2014 as a way for you to say, "We may approve some of this work retroactively but you, property owner, are required to remediate lost historic materials that we are saying were not appropriate. We would not have issued a COA on those." So in this project, we're a little bit in between because this is something you would not have seen under normal circumstances. But we believed you should see it and what we are recommending is that this is something we would have approved administratively except for those right smack dab in the middle of the structure. We're not sure we would have approved those administratively. Again, if it's the director's determination that they can't be approved administratively, then they come to you. So that's what we're doing here and we're asking you to authorize us to tell the property owner to take those front ones off.

**Commissioner Srinivasan:** Thanks for the clarification.

**Chair Boesel:** Any other comments or questions?

**Commissioner Srinivasan:** This is hypothetical. If we allowed the panels to be installed as is, and since our process is not followed, is there anything else we can add to the COR just to emphasize that the process needs to be followed? In terms of fines or anything else?

**Director Wallace-Brown:** My understanding is that they will still need to get a building permit for this. They still do not have a building permit. My understanding from Pete is that when they go back to get their building permit, they will have to pay double the permit fees. Kim may know more about that. I'm going on what Pete has told me in the past.

**Preservation Officer McAllen:** I'll confirm that. That's a routine, normal process for work completed without permit.

**Chair Boesel:** Thank you. Commissioners, if there are no further questions, is there a motion?

**Commissioner David Bucek:** I make a motion to accept staff's recommendation.

**Chair Boesel:** Thank you. Is there a second?

**Commissioner Yap:** Second.

**Chair Boesel:** Any discussion on the motion? (No response) All in favor?

**Commissioners:** Aye.

**Chair Boesel:** Any opposed?

**Commissioner Srinivasan:** Oppose.

**Chair Boesel:** Any abstentions? (No response) Motion carries. Thank you commissioners and thank you to our applicant.

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## Minutes of the Houston Archaeological and Historical Commission

July 29, 2021

Telephonic/Videoconference Meeting held via Microsoft Teams [https://bit.ly/HAHC\\_july292021](https://bit.ly/HAHC_july292021)

2:00 p.m.

### CALL TO ORDER

Chair Minnette Bickel Boesel called the meeting to order at 2:00 p.m. with a roll call vote and a quorum present.

Minnette Bickel Boesel, Chair

David Bucek, Vice Chair

Steven Curry

Ann Collum

John Cosgrove

Ashley Elizabeth Jones

Ben Koush

Stephen McNiel

Absent

Rhonda Sepulveda

Arrived at 3:39 p.m. during item E-9

Urmila Srinivasan

Arrived at 2:22 p.m. during item A

Charles Stava

Beth Wiedower Jackson

Dominic Yap

### EXOFFICIO MEMBERS

Samantha Bruer, Architectural Archivist, Houston Metropolitan Research Center

Marta Crinejo, Mayor's Liaison

### Executive Secretary

Margaret Wallace Brown, Director, Planning and Development

### CHAIR'S REPORT

Minnette Boesel spoke about the designation of Juneteenth as a National Holiday. Also, congratulated the Freedman's Town Conservancy and Allwood Cemetery who were both awarded grants by the National Trust for Historic Preservation African American Heritage Action fund.

### DIRECTOR'S REPORT

Margaret Wallace Brown commented about the anticipated September 16 in-person meeting, and Mike Kramer's retirement. She reported the HAHC decision on the Glenbrook Valley appeal at 8435 Glencrest Street was overturned by the Appeals Board in June, with the conditions that the current doors and windows remain, and that the applicant works with staff to reinstall a column. She also reported approving a total of 65 administrative Certificates of Appropriateness (COA's). She commented that there were 9 new pre-application design review requests to staff for a total of 33 this year.

### MAYOR'S LIAISON REPORT

NONE

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## APPROVAL OF THE JUNE 17, 2021 HOUSTON ARCHAEOLOGICAL AND HISTORICAL COMMISSION (HAHC) MEETING MINUTES

Approval of the minutes were deferred.

### A. PUBLIC HEARING AND CONSIDERATION OF AND POSSIBLE ACTION ON PROPOSED BRUNNER-HARMONIUM HISTORIC DISTRICT.

The Chair open and closed the public hearing.

Motion by Commissioner Curry, seconded by Commissioner Wiedower Jackson, to approve the Brunner-Harmonium Historic District with the amended map boundary, and forward it to City Council.

Motion carried with a roll call vote with the following Commissioners audible and in attendance: Commissioners Bucek, Curry, Collum, Cosgrove, Jones, Srinivasan and Wiedower Jackson voting in favor; Commissioners Koush, Stava and Yap voting against.

Chair verified that the following Commissioners were not audible or in attendance at this time: McNiel and Sepulveda.

Speakers: Huw Pierce, Marlene Beita and Mike Van Dusen – supportive.  
Curry/Jackson

### B. PUBLIC HEARING AND CONSIDERATION OF AND POSSIBLE ACTION ON A PROTECTED LANDMARK DESIGNATION APPLICATION FOR THE MARSHALL-CALLOWAY BUILDING AT 5303 LYONS AVENUE, HOUSTON, TEXAS 77020.

The Chair open and closed the public hearing.

Speakers NONE

Motion by Commissioner Wiedower Jackson, seconded by Commissioner Yap, to approve the protected landmark designation for the Marshall-Calloway Building at 5303 Lyons Avenue, Houston, Texas 77020 and forwarded to City Council. Motion carried unanimously.

### C. PUBLIC HEARING AND CONSIDERATION OF AND POSSIBLE ACTION ON A PROTECTED LANDMARK DESIGNATION APPLICATION FOR THE MILLER HOUSE AT 501 ROUSE, HOUSTON, TEXAS 77020.

The Chair open and closed the public hearing.

Motion by Commissioner Yap, seconded by Commissioner Stava, to approve the protected landmark designation for the Miller House at 501 Rouse, Houston, Texas 77020 and forwarded to City Council. Motion carried unanimously.

Speaker: Sanea Sakhyani – supportive.

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**D. CONSIDERATION OF AND POSSIBLE ACTION ON REFERRAL TO TEXAS HISTORICAL COMMISSION FOR LISTING ON THE NATIONAL REGISTER OF HISTORIC PLACES FOR ELDORADO BALLROOM AT 2310 ELGIN STREET, HOUSTON, TEXAS 77004**

On behalf of the Houston Archaeological and Historical Commission, a letter will be sent to the Texas Historical Commission to approve the listing on the National Register of Historic Places for Eldorado Ballroom at 2310 Elgin Street, Houston, Texas 77004.

**E. CONSIDERATION OF AND POSSIBLE ACTION ON CERTIFICATE OF APPROPRIATENESS APPLICATIONS FOR CONSENT AGENDA**

Motion was made by Commissioner Jones, seconded by Commissioner Wiedower Jackson, to consider items E-3, E-4, E-5, E-6, E-7, E-8, E-10, E-11, E-12, E-13, E-14, E-15, E-18, E-19, E-21, E-22, E-23 and E-25 together. Motion carried unanimously.

- E-3. 1324 North Blvd – Alteration - Addition, Foundation, Siding or Trim, Doors, Windows, Roof – Broadacres – Approval
- E-4. 845 Arlington St – Alteration - Addition – Houston Heights South – Approval
- E-5. 1329 Harvard St – New Construction - Garage or Carport – Houston Heights East – Approval
- E-6. 109 E. 12th St – New Construction - Garage or Carport – Houston Heights East – Approval
- E-7. 109 E. 12th St – Alteration - Addition – Houston Heights East – Approval
- E-8. 820 Cortlandt St – Alteration - Addition, Foundation, Siding or Trim, Doors, Windows, Roof, Porch or Balcony – Houston Heights West – Approval
- E-10. 1813 Kane St – Alteration - Windows, Porch or Balcony – Old Sixth Ward – Approval
- E-11. 711 Key St – Alteration - Other – Norhill – Approval
- E-12. 724 W Melwood St – Alteration - Foundation, Siding or Trim – Norhill – Approval
- E-13. 724 W Melwood St – Alteration - Addition – Norhill – Approval
- E-14. 1135 Key St – Alteration - Addition, Foundation, Siding or Trim, Doors, Windows, Roof, Porch or Balcony – Norhill – Approval
- E-15. 1516 Harvard St – Alteration - Addition, Foundation, Siding or Trim, Doors, Windows, Roof, Porch or Balcony – Houston Heights East – Approval with Conditions
- E-18. 526 Byrne St – Alteration - Addition – Woodland Heights – Approval
- E-19. 526 Byrne St – New Construction - Garage or Carport – Woodland Heights – Approval
- E-21. 2304 Decatur St – Alteration - Foundation, Siding or Trim, Doors, Windows, Roof, Porch or Balcony – Old Sixth Ward – Approval
- E-22. 1919 Lubbock St – Alteration - Siding or Trim – Old Sixth Ward – Approval
- E-23. 1512 South Blvd – Alteration - Addition – Boulevard Oaks – Approval
- E-25. 1447 Cortlandt St – Alteration - Windows, Porch or Balcony – Houston Heights East – Approval with Conditions

Motion was made by Commissioner Jones, seconded by Commissioner Wiedower Jackson, to accept staff recommendations for items E-3, E-4, E-5, E-6, E-7, E-8, E-10, E-11, E-12, E-13, E-14, E-15, E-18, E-19, E 21, E-22, E-23 and E-25. Motion carried unanimously.

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Item E-24 was taken out of order and voted on at this time.

**E-24. 2310 Elgin St – Alteration - Addition - Doors, Windows, Sign, Storefront, Awning – Eldorado Ballroom Protected Landmark**

Motion by Commissioner Yap, seconded by Commissioner Curry, to approve the Certificate of Appropriateness for item E-24 with the condition that City Council approves the Protected Landmarks status and amend code to allow for restoration/recreation of historic signage on roof and front face of entry awning. Applicant to permit Right of Way encroachment for awning entrance. Texas Historical Commission to approve final window selection of either option A or B for Federal Tax Credit project. Motion carried with Commissioner Bucek abstaining.

**E-1. 806 Branard St – Alteration - Siding or Trim, Windows – First Montrose Commons**

Motion by Commissioner Wiedower Jackson, seconded by Commissioner Stava, to deny the Certificate of Appropriateness for item E-1 and issue a Certificate of Remediation, to replace siding removed with dash stucco to match original texture and restore original wood windows. Motion carried unanimously.

Speaker: Stephen Longmire – supportive.

**E-2. 610 Marshall St – Alteration - Other – Audubon Place**

Motion by Commissioner Yap, seconded by Commissioner Stava, to deny the Certificate of Appropriateness for item E-2 and issue a Certificate of Remediation, to restore East Elevation light pattern to match original window pattern. Motion carried unanimously.

**E-9. 7746 Wilmerdean St – Alteration - Siding or Trim – Glenbrook Valley**

Motion by Commissioner Wiedower Jackson, seconded by Commissioner Jones, to deny the Certificate of Appropriateness for item E-9 and issue a Certificate of Remediation, to install ribbon windows typical of garage doors in the Glenbrook Valley historic district and the applicant to work with staff for the final design. Motion carried with Commissioner Sepulveda not audible.

Speaker: JerMaine Anugwom, agent – supportive.

**E-16. 3810 Watson St – Alteration - Foundation, Siding or Trim, Doors, Porch or Balcony, Roof – Norhill**

Motion by Commissioner Yap, seconded by Commissioner Jones, to approve the Certificate of Appropriateness for item E-16 with the condition that the applicant keeps all original siding on the second floor and that staff review final plans before construction permit is issued. Motion carried with Commissioner Sepulveda not audible.

**E-17. 7806 Santa Elena St – Alteration - Door – Glenbrook Valley**

Motion by Commissioner Wiedower Jackson, seconded by Commissioner Curry, to deny the Certificate of Appropriateness for item E-17 and issue a Certificate of Remediation, to replace door for a more appropriate style and to reinstall two side lites with the addition of staff's review of the final design to include the portions of the entryway on either side and above the front door and the two side lites. Motion carried unanimously.

Speaker: Pumpkin Marks, applicant/owner – supportive.

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**E-20. 215 Bayland St – Alteration - Equipment, Solar Panels – Woodland Heights**  
Motion by Commissioner Bucek, seconded by Commissioner Yap, to approve the Certificate of Appropriateness for item E-20 with the condition staff issue a Certificate of Remediation to remove the solar panels located on the front south location and the front east location. Motion carried with Commissioner Srinivasan opposing.  
Speaker: Clayton Mealer, owner – supportive.

## F. COMMENTS FROM THE PUBLIC

Stephen Longmire proposed the creation of two brochures for Certificate of Remediation and Certificate of Appropriateness that he believes would greatly educate the public on the process.

## G. COMMENTS FROM THE HAHC

Commission Collum asked about the windows that was approved by staff for 8115 Glendale Court that were replaced with items that are not conducive to the neighborhood.

## H. HISTORIC PRESERVATION OFFICER'S REPORT

Roman McAllen thanked Commission and staff for their hard work. Also, commented on Pleasantville neighborhood which has been in the news and discussed upcoming meetings with the public regarding potential Independence Heights Conservation District.

## I. ADJOURNMENT

There being no further business brought before the Commission, Chair Minnette Bickel Boesel adjourned the meeting at 4:28 p.m.

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**Minnette Bickel Boesel**  
Chair

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**Margaret Wallace Brown**  
Executive Secretary

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## Exhibit D:

Public Comment Received  
September 3, 2021



**KARLA CISNEROS**  
Houston City Council Member, District H

September 3, 2021

**RE: Solar Panels on a Residential Roof of Historic Home**

Dear Planning Commission,

I am an advocate for historic preservation and appreciate the efforts of the Planning Commission and the HAHC to protect the character of Houston's historic homes and neighborhoods. I am also a strong supporter for Houston Climate Action Plan and believe we must do what we can to improve energy efficiency. When those two different visions don't exactly align, special consideration must be given to specific situations.

I am asking the Commission to reconsider the request to allow all of the solar panels that were installed on the second story roof of the home at 215 Bayland Ave. I do understand that the panels were installed without prior approval or a permit, and perhaps there is a consequence for that. Never-the-less, this application warrants a second look because of the benefits provided by this use of green energy, and because the solar panels on this historic home have low visibility from the street.

The solar panels are located on the second-story roof, where they are largely obscured by massive live oak trees and are not very noticeable from the street.

The circumstances of this site warrant further consideration and I urge you to reconsider the Commission's previous determination.

Thank you,

A handwritten signature in blue ink that reads "Karla Cisneros".

Karla Cisneros  
Council Member, District H

Telephone (832) 393-3003 • P.O. Box 1562 • Houston, Texas 77251-1562 • 900 Bagby, 1st Floor •  
districth@houstontx.gov

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## Support for Applicants and Residential Solar (HPO File No. 2021\_0163)



Megan Oliphint <megoliphint@yahoo.com>

To: PD - Historic Preservation

Cc: Clayton Mealer; Guy Oliphint

Reply

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Fri 9/10/2021 1:03 PM

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We are neighbors on the same block as the applicants and residents of the Woodland Heights. We are writing in support of the applicants at 215 Bayland Ave. and residential solar in our city (regardless of historic status).

Best regards,  
Meg and Guy Oliphint  
205 Bayland Ave

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Exhibits:

- A. Action report from HAHC meeting of July 29, 2021
- B. Unofficial Transcript of HAHC meeting of July 29, 2021
- C. Draft minutes of July 29, 2021 meeting of the HAHC
- D. Public Comment

# CITY OF HOUSTON

HISTORIC PRESERVATION APPEALS BOARD  
PLANNING & DEVELOPMENT DEPARTMENT

Meeting Date: /13/2021

**ITEM: III**

**APPLICANT:** Clayton Mealer, owner

**PROPERTY ADDRESS:** 215 Bayland St

**LEGAL DESCRIPTION:** Tracts 23 & 24, Block 4, Woodland Heights Subdivision

**HISTORIC DISTRICT:** Woodland Heights Historic District

**Re: HPO File No. 2021\_0163, 215 Bayland Ave., Houston, TX 77009**

I am writing in support of the applicant's appeal of the above referenced file pertaining to the installation of solar panels at 215 Bayland Ave.

### About Me

I live at 3011 Houston Ave., Unit D, about two blocks from 215 Bayland Ave., within the area commonly known as Woodland Heights. I am not acquainted with the owners of 215 Bayland. I am a trained Ph.D. engineer with a strong personal interest in my neighborhood and the energy industry, so seeing the posted notice really piqued two of my interests.

### Documents Reviewed

I have reviewed city ordinance Sec. 33-241, the applicant's public file ([E20\\_HAHC\\_215\\_Bayland\\_Ave\\_Solar\\_Panels\\_Final.pdf\(houstontx.gov\)](#)), and the draft Woodland Heights Historic District Design Guidelines dated June 25, 2021. I note the later document is not adopted, and that only the ordinance itself governs the decision, but I nonetheless found this document useful to understand the HAHC's thinking. The applicant also posted a solar PV system document on Nextdoor, which was also informative. I have reproduced it below. A key fact is that it shows the system will not fully power the home if the corrective action order is upheld.



### Reason for Denial

The public document states that the reason for denial is that *solar panels are visible from the right of way* and that therefore the installation fails criteria (1), (3), (4), and (6) of 33-241.

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## Summary of Argument

The appellants should prevail for numerous reasons, including because 1) the relevant Ordinance does not state that visibility from the right of way is solely sufficient for denial, 2) solar panels provide a required utility no different than other common utilities that are allowed, 3) the effective prohibition of all panels from the front of thousands of homes puts the HAHC and COH at legal risk, and 4) the proposed system is the minimum size for powering the home, minimizes visual impact, and is therefore in keeping with the spirit of the guidelines. If this argument is unpersuasive, I still urge the HAHC to consult with the City Attorney before proceeding with final denial of the appeal.

## Ordinance 33-241 does not state that "Visible from Right of Way" constitutes grounds for denial.

It is the opinion of the HAHC staff, not Ordinance 33-241, that visibility from the ROW constitutes sufficient reason to fail these four criteria. Visibility of the panels from the right of way was cited as the sole reason for denial, but it is plainly obvious that lots of modern electrical equipment is clearly visible from the right of way. Most homes, including 215 Bayland, have plainly visible air conditioning equipment, electrical boxes, and smart meters. Clearly, the HAHC feels that some electrical equipment is acceptably visible from the right of way – and it feels that solar panels are not acceptably visible. The ordinance clearly anticipates that most panels will be administratively approved, with only those on the front subject to potential review. But even then, the critical text of 33-241.1 (c) (4) does authorize the Director to issue a COA for "low-profile skylights, shutters, solar panels, antennae, satellite dishes, or other roof equipment installed on the front half" under certain conditions. This begs the question – what are those conditions? The proposed system is the minimum size to power the home and is placed to minimize the visual impact given the need to fully power the home. If this system can't be approved because it is "visible from Right of Way," then what system could be approved? By requiring removal of all panels on the front half of the original structure, despite the need for them to power the home, the HAHC has clearly staked out its position – it will never grant approval to any panels on the front. If it is never, then why does the ordinance contemplate conditional administrative approval for the front half, which is always visible from the Right of Way? The intent of the writers of the ordinance was to allow panels on the front under *some* circumstances, but it does not spell out those circumstances. The HAHC needs to make clear in its rejection under what circumstances it would, in fact, approve panels on the front.

## Required Utility

When this home was originally constructed, it probably had a coal bin and a hitching post. But energy systems change over the generations. The next iteration of the coal bin could be rooftop solar. The next iteration of the hitching post may be an EV fast charging station. Electrical equipment is of course a necessary function of any home. It is impossible to anticipate what methods of electrical power generation, transmission, and storage will evolve as energy markets are rapidly changing in Texas. The HAHC's archaeologists, historians, and land use professionals should not be in the business of making de facto policy regarding the energy system choices that homeowners make. The HAHC presumably allows modern air conditioning equipment, gas meters, electric smart meters, above ground electrical distribution equipment, transformers, and more to be located "visible from the right of way". It is possible (but by no means certain) that rooftop solar, EV fast-charging equipment, battery storage, 5G transmitters, and electrical invertors will all grow in the years ahead. They should not be viewed as different from other commonly accepted utility infrastructure that we accept in Historic Districts.

## Puts HAHC and COH at Legal Risk

It is inevitable that as technology changes that some new technologies, perhaps solar, will gain wide acceptance. When wide acceptance is reached, the precedent set by prohibiting any solar "visible from the right of way," even when necessary for power, will become untenable. Home Owner's Associations

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(HOAs) previously commonly prohibited solar power or severely restricted it, just as the HAHC proposes. This was litigated in the State of Texas, the HOAs lost, and in 2011 the Texas Legislature passed into law what is now Property Code 202.010 [Texas Property Code Section 202.010 - Regulation of Solar Energy Devices]. This law essentially strips HOAs of the ability to restrict solar power. It is highly likely that a well-funded, well-educated, and highly motivated person such as this appellant will one day become the test case that takes the COH to court over this, likely with solar industry support. I recommend that the HAHC consult with the City Attorney to see if the HAHC decision is on solid legal ground for the long term. The HAHC decision in this instance effectively prohibits the cost-effective use of solar power on every large south-facing home in Historic District, a policy outcome not likely anticipated by the City Attorney when he/she assisted with the drafting of the Ordinance.

#### Proposal Keeps with the Spirit of the Guidelines

The appellant's professionally designed system was sized by an engineer to adequately, but not excessively, power the home. The proposed system avoids the most visible southwest corner, despite that corner being ideal for power production given that it is unshaded and south-west facing. It masses the lion's share of the panels in the rear. The southeastern panels of most concern to the HAHC are partially obscured by the famous live oak trees. The home is quite tall. When walking by the home most days, I just don't notice these panels. It seems clear the professional engineer designed a system that meets the minimum power requirement while minimizing visibility. Additionally, the panels are low profile, black to match the roof, and gap free with no silver coloring visible between the cells. The proposed system is exactly what you would build if you wanted to minimize visual impact while meeting the power requirement.

Yes, under 33-241.1 (c) (4), it looks like my neighbor should have sought the COA for the front panels before they put them up. However, for all the reasons above, I support my neighbor's minimally sized solar panel installation. I'm sure, like a good neighbor, they will know to ask first next time.

Best Regards,

Owen Hehmeyer  
3011 Houston Ave. Unit D  
Houston, TX 77009

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