



## TOWN OF PORTSMOUTH PLANNING BOARD

2200 East Main Road  
Portsmouth, RI 02871  
401-683-3717

### PORTSMOUTH PLANNING BOARD Regular Meeting April 14, 2021

**Members Present:** Guy Bissonnette, Luke Harding, Edward Lopes, Kathleen Wilson, David Garceau, Ryan Tibbets and Seth Pilotte

**Members Absent:** none

**Others Present:** Leon Lesinski, Administrative Officer, Portsmouth Planning and Michael Asciola, Assistant Town Planner

The Zoom Meeting was called to order in the Town Council Chambers by Mr. Bissonnette at 7:00 p.m.

**1. Agenda Continuances/Modifications:** none

**2. Approval of minutes for Planning Board meeting of March 10, 2021**

**MOTION:** Mr. Harding made a motion, seconded by Mr. Lopes to approve the March 10, 2021 meeting minutes with the following corrections: On page 5, in the motions for Agenda Items 4 & 5, delete the last two sentences and replace them with the following statement, "All in favor. So voted." All in favor. So voted.

**3. Applicant: West Main Solar 1, LLC, Owner Zaugg Marion Trustee & Regal, LLC, Location – AP 44, Lot 15 West Main Road (less than 0.1 miles north of Russo Road) – Master Plan Application for the development of a 3.16 MW, Ground-mount, Solar Photovoltaic Facility.**

Atty. Helen Anthony, Handy Law, LLC, 42 Weybosset Street, Providence, RI appeared representing the applicants, West Main Solar 1, LLC, with a request for master plan approval for a major solar photovoltaic facility proposed for an 18.3-acre site, which is zoned light industrial on the east side and commercial on the west side. It is located along the east side of West Main Road just north of Russo Road. Atty. Anthony noted that the total development area is 8.2 acres, comprising 42% of the site area. She introduced Scott Milnes and Steve Kerr, developers, West Main Solar 1, LLC, Andrew Vardakis and Jean Hagarty, the project engineers and Kevin Alverson, the project landscape architect. She asked Mr. Vardakis to present the design plan.

Andrew Vardakis, P.E., Wood Environment & Infrastructure Solutions, Inc., 275 Promenade Street, Providence, RI reviewed two attachments of the submitted master plan application: Attachment C, the design plan and Attachment F, the

compliance requirements for major solar energy systems according to the Town Ordinance, Chapter 405 Zoning, Article XX: Solar Energy Systems (SES). He highlighted the following details of the design plan:

- The design indicates a project area of 12 acres with an interior solar array area of 8.2 acres.
- The 20' ft. wide access road is located on the west side and extends from West Main Road to the development area at a gate. The bend in the road extends away from the northern property line, with the effect of obscuring the views to the gate to the development area.
- A 6-foot high, chain-linked fence surrounds the solar array.
- The array is comprised of ground mounted solar panels with a height of 3 feet in the front and less than 10 feet in the back.
- The ground surface of the solar array is a low-grow grass.
- Beyond the fence line is a tree clearing line (TC) and a limit of disturbance (LOD) line, which encompasses the 12-acre project area.
- The remaining land area for the site is a set-back from the property line which is set at the required minimum of fifty feet, beginning at the northeast corner and continuing around the east and southern portions of the site. This setback is wider along part of the northern boundary and the western boundary.
- The stormwater plan includes structures in the northwest and southern areas of the site to account for run-off associated with the tree clearing and the changes in vegetation and ground-covering.
- The energy collection from the solar panel inverters is through underground conduit to two equipment pads and then to a series of utility poles, located along the access road, which transfer the electrical energy to the main grid on West Main Road.

Mr. Bissonnette called for questions from the Planning Board members. In response to Mr. Lopes, Mr. Vardakis confirmed that there are no major changes to the topography of the site. He noted that there is minor grading for the stormwater management system and that the proposed array follows the existing contours of the land. In response to Mr. Bissonnette, Jean Haggerty, P.E., Senior Associate, Wood Environment & Infrastructure Solutions, Inc., 271 Mill Road, Chelmsford, MA stated that the drainage system design is calculated for a 100-year storm plan.

At the request of Atty. Anthony, Kevin Alverson, Landscape Architect, 360 Annaquatucket Road, Wickford, RI reviewed Attachment D, the landscape plan of the master plan application. He highlighted the following details of the landscape plan:

- The landscape plan indicates a minimum of a fifty foot no cut buffer (setback) around the entire development area, which includes the solar array and the surrounding tree clearing area.

- Within the tree clearing area, larger vegetation, that is higher than 12 feet, is cleared while lower growth is maintained, the purpose of which is to secure a thick cover while not shading the solar panels.
- Supplemental evergreen plantings are indicated around the drainage structure in the northwest corner and around the access road entrance into the fenced array.
- The plan indicates a no cut vegetative buffer (set back) of 230 feet from West Main Road along the western portion of the site.
- When clearing and construction commence, supplemental plantings beyond what is indicated in the plan, will be added based on resulting sight conditions.
- At the southern area of the site, the landscape plan indicates evergreen plantings on top of a berm that runs above three proposed drainage structures. This is just north of the required fifty foot, no cut buffer (setback) so as to obstruct an abutter's view of the drainage system and the array.
- Along the east side of the site, the landscape plan indicates supplemental evergreen plantings between the tree clearing area and the required fifty-foot, no cut buffer (setback) so as to obstruct an abutter's view of the array.
- In the northern site area, from the limit of disturbance (LOD) line to the property boundary, the required no cut buffer expands from the minimum of fifty feet in the northeast corner to approximately 150 feet at the northwest corner.
- The landscape plan indicates a mix of deciduous and evergreen supplemental plantings along the LOD line in the northern site area. The planting species are native and pollinator friendly and thus provide for better habitat including avian nesting.
- The array provides a low grass field habitat for insect pollinators and a hunting ground for the birds of prey in the area.

Mr. Bissonnette called for questions from the Board members. Mr. Lopes commended Mr. Alverson for his revision history block in the landscape plan, which notes the Advisory Opinion from the Town of Portsmouth Design Review Board (DRB), dated March 16, 2021. He asked that the DRB Advisory Opinion be made Exhibit I to the petition. Atty. Anthony agreed to this request. In response to Mr. Lopes, Mr. Alverson confirmed that all the recommendations from the DRB are incorporated into the landscape plan. Mr. Bissonnette called for public comment.

In response to David Howard, neighbor, 36 Marial Rose Drive, Portsmouth, Mr. Vardakis stated that the berm along the southern drainage structures will be sized properly, in the design analysis process, to ensure that there is no back flow that would negatively impact the abutters' properties. Mr. Howard asked if

the array could be seen from the abutters' second floors of their homes. Mr. Alverson stated that the intent of the no-cut buffer (setback) with its larger plantings, along with the supplemental evergreen plantings, is to obscure the view of the array from second stories. He said that on-site views will have to be observed and adjusted through further the landscape design.

Robin Younkin, neighbor, 49 West Passage Drive, Portsmouth read a lengthy statement in which she voiced her concerns for the proposed solar development and for other solar and commercial development, particularly on the town's west side, which could negatively impact the character of Portsmouth. She raised objection to the loss of open space, the clearing of wooded lots and the elimination of wildlife habitats. She stated that major solar developments should be located in appropriate, developed areas. She raised objection to the process under which the Town Council passed the solar ordinance and called for greater buffer requirements and enforcement plans in solar development.

In response to Ms. Younkin, Atty. Anthony argued that the professionals have taken a conservative approach to the design particularly with the landscape plan. She noted that the property is zoned light industrial and commercial.

Ms. Younkin asked for changes to the types of species listed in the supplemental plantings. She expressed concern that the north end was not sufficient.

Referring to the planting legend on page one of the landscape plan, Mr. Alverson stated that the mixture of species lends itself to a layered buffer with a preferred outcome that is more natural for a forest habitat. He said the lower growing shrubs help to fill in the understory of the larger evergreen trees and are pollinator friendly.

In response to Bill Komm, neighbor, 108 West Passage Drive, Portsmouth, Mr. Vardakis stated that the tree cutting (TC) line is actually the same as the limit of disturbance (LOD) line but the two are delineated on the plan for visual purposes. Mr. Komm asked if the tree cutting line has a vertical limit or is it set at ground level. He asked if branches that cross the cut line will be trimmed off a tree that is outside the cut line.

Steve Kerr, principal, West Main Solar 1, LLC, 13 Stimpson Street, Middletown, RI, stated that the tree cut line is at the fifty-foot buffer (set back) line. He stated that he would not cut trees at the trunk within the fifty-foot buffer, however if branches extend over the buffer line toward the array, they will be trimmed to limit shading to the array. He noted that this cutting of branches may likely happen in the northern end of the site.

In response to Mr. Komm, Mr. Alverson noted that branching cutting of trees would be conducted by a certified horticulturalist to ensure their protection and health. He noted that any unhealthy trees, within the no-cut zone, that are at risk

of falling, will be removed to protect the array and employees. The supplemental tree planting plan will be adjusted to compensate for the cut trees. He stated that branch cutting is not likely to occur along the site's east and west sides because over-hanging branches will shade the limited cut area and not the array.

Tom McGinley, abutter, 9 Chelsea Drive, Portsmouth inquired as to how much of the no-cut (set back) buffer is going to remain undisturbed, given the existence of dead wood. Mr. Alverson stated that the intent is to keep everything possible within the buffer while removing selected, larger, unhealthy trees that present a risk to the project, the onsite workers and the abutters' properties. In response to Mr. McGinley, Mr. Alverson stated that while the plan indicates "gaps" in the supplemental plantings, the intent is to block any sight lines to the array. He noted that the supplemental plantings will be adjusted or enhanced as needed and that he will work directly with abutters on this matter. Answering further questions from Mr. McGinley, Mr. Alverson noted that along the southern end, near the catch basins, the plan does not specify a limited growth area, however it indicates evergreen trees on the 4-foot berm located above and to the south of the drainage structures. Mr. McGinley noted that there is an approximate 25-foot elevation from his back yard up to the northeast area of the site. Mr. Alverson stated that the supplemental plantings will include fast growing trees with understory plantings.

In response to Mr. McGinley's question about the storm water catch basins, Mr. Vardakis stated that the final stormwater calculations are ongoing, the results of which will determine the types of basins. Mr. Bissonnette clarified for the public that the purpose of the master plan review is to look at the aspirational aspects of the proposed plan and that the detailed review occurs at the preliminary hearing.

Mr. McGinley inquired as to why, at the concept review in January, the plan indicated that the buffers, which included the no-cut set back, were set at 150 feet wide but were changed to 130 feet on the master plan. Mr. Vardakis stated that the pre-application drawings were preliminary and the master plan incorporated shifts of 10 feet here or there with the intent to indicate distances of 130 to 150 feet from the fence line to the property line.

Bruce Fay, abutter, 84 Sweet Farm Road, Portsmouth, expressed concern for the wording under item 16 in Appendix F of the master plan application which states that the use of herbicides and pesticides will be minimized which intimates that these chemicals could be used and could then potentially contaminate the neighbors' wells. Atty. Anthony, speaking for the applicants, said they have no plans to use herbicides and pesticide and will amend the wording in item 16 accordingly. Mr. Fay inquired as to whether the applicant had conducted an environmental impact study of the site since it was formerly a junk yard. He expressed concern that there may be hazardous materials in the ground.

Scott Milnes, principal, West Main Solar 1, LLC, explained that disturbance to the

site is minimal. He stated that RIDEM, as the regulating authority, has not required an environmental impact study and one has not been completed.

Mr. Fay inquired as to who is the legal authority that ensures compliance. Mr. Bissonnette responded stated that the Town's zoning enforcement officer has that authority. Atty. Anthony stated that in addition to the design and landscape plans, the final submittal includes other documentation, like the operation and maintenance plan which has compliance requirements that are also enforced by the zoning enforcement officer. Mr. Fay expressed his concerns that the Town conduct regular inspections of the project.

In response to questions from Julie Munifo, 18 Calvert Place, Jamestown, RI, Mr. Milnes stated that blasting is not required for the installation of the solar panels. He further stated that the racking installer will conduct pole testing to determine the depth of the drive and the soil composition. Wood Environmental will also conduct soil testing as required by RIDEM. In response to Ms. Munifo, Mr. Milnes stated that replacement of failed trees is covered in the operation and maintenance plan.

Jessie McHugh, abutter, 48 Sweet Farm Road, Portsmouth expressed concern for the potentially hazardous materials buried on the site. He noted that there are materials and items sticking up everywhere on the proposed site. Mr. Milnes responded stating that for finance purposes, the site will undergo a Phase I environmental study. Mr. McHugh asked if Mr. Milnes will execute a reclamation bond prior to digging on the site. Mr. Milnes stated that the bond is not required unless it becomes necessary based on the outcomes of the environmental study. He also stated that there will be no subterranean excavation and that work is limited to minimal ground disturbance to install the solar panels. In further response to Mr. McHugh, Mr. Milnes state that the galvanized rods are spaced every 10 to 15 feet, yielding about 8 to 10 per panel row. He also stated that if something hazardous is revealed during construction, then the construction would cease and the incident would be reported.

In response to questions from Bill Komm, neighbor, 108 West Passage Drive, Portsmouth, Mr. Milnes stated that the noise associated with the electrical inverters, which are located on the panel racks, is 50 decibels and would not be heard beyond the fence line. He noted that there is no glare associated with the solar panels and that the design of the drainage structures is being developed by the project engineer.

Shelly Nicholas, abutter, 59 Marial Rose Drive, Portsmouth asked how the setbacks were determined on each side of the design. Atty. Anthony and Mr. Vardakis both stated that the minimum setbacks are determined by the requirements set forth in the town solar ordinance. Mr. Vardakis also explained that greater distances are indicated with the limited cut areas along the south, east and west areas to prevent shading of the solar arrays. Ms. Nicholas

commented that consistence distances should be established to obscure the views of the array for all abutters. In response to Ms. Nicholas, Mr. Alverson explained throughout construction, he reviews the limit of disturbance (LOD) area as tree clearing is occurring. He would conduct a hands-on approach to adjusting the LOD by preserving and potentially moving large trees. In response to Mr. Bissonnette, he stated that he is willing to work with abutters with their concerns over landscaping and buffering. Atty. Anthony noted that Mr. Milnes is having conversations with abutters to discuss their concerns. Mr. Milnes stated that in the final stages, after the site is cleared according to the plan and he has permits in hand, neighbors could meet with Mr. Alverson to work solutions for their issues with views from their properties. Ms. Nicholas asked if privacy slats could be utilized to obscure the views to the array. Mr. Milnes stated that while privacy slats are not as attractive as a planting buffer, he would look into them as an alternate option.

Louis Letendre, abutter, 94 Sweet Farm Road, spoke on his and his neighbors' experiences with finding junk in their yards as well as mud and run off from the proposed site. Mr. Vardakis and Mr. Milnes answered questions from Mr. Letendre. Mr. Vardakis stated that the preliminary design has 7,520 solar PV modules. Mr. Milnes stated that the module racks have posts set at every ten to fifteen feet. Mr. Milnes explained that heavy equipment would be utilized to clear the fenced array area (cutting trees and digging up stumps) but that there would be no re-grading of the land. Mr. Milnes stated that he would share the results of the Phase I environmental study with the Town. Mr. Bissonnette noted that neither the Town nor the State requires an environmental impact study.

Expressing concern for resulting sight lines with the project, Mr. Letendre asked if evergreen trees could be planted along the limit of disturbance line. Mr. Alverson gave an affirmative response to Mr. Letendre's request, noting that specific species could be determined further along in the project.

Lark Roderigues, abutter, 73 West Passage Road, Portsmouth read a statement in which she expressed concern for many issues associated with the proposed solar development, including disrupting contaminated soil, increasing runoff to wetlands and playgrounds, clearing woodlands and displacing wildlife, noise, lack of environmental and solar glare testing, and fire and safety security. Noting that her property abuts the proposed site on its northern boundary, she stated that the fifty-foot set back is insufficient and buffers her property and sight lines by only three car lengths. She expressed her disappointment that, with the proposed solar development, she will have an industrial park just beyond her backyard. She asked the developers to meet their commitment to work with and help the neighbors. Atty. Anthony declined to respond to Ms. Roderigues' statement.

Referring to an earlier landscape plan for the proposed development, David Howard, neighbor, 36 Marial Rose Drive asked if the developer would adhere to the lime and fertilizer applications specified in that version. Mr. Milnes state that

the applications will not take place and that the specification will be removed from the plan. Mr. Howard commented that the proposed development would not be as contentious an issue had the US Navy had not developed its property along West Main Road with the large, visible solar project. He asked the Town to address this matter with the Navy especially since the Navy is planning similar projects in Portsmouth.

Mr. Bissonnette closed the public comment portion of the hearing. Atty. Anthony made closing remarks and requested master plan approval from the Planning Board.

**MOTION:** Mr. Tibbets made a motion, seconded by Mr. Harding, to grant master plan approval for West Main Solar 1, LLC, Owner Zaugg Marion Trustee & Regal, LLC, Location – AP 44, Lot 15 West Main Road based on the following conditions:

1. The Advisory Opinion from the Town of Portsmouth Design Review Board (DRB), dated March 16, 2021, is entered into the record as Exhibit I and the recommendations set forth in the advisory opinion are incorporated into the plan.
2. The project receives a RIPDES permit from RIDEM and the stormwater management controls are set to a 100-year storm plan.
3. Under item 16, Appendix F of the master plan application, the language that specifies the use and application of herbicides and pesticides is redacted.
4. The project Operations and Management plan will include provisions for the maintenance of trees, the removal and replacement of dying trees and the disallowance of the use of pesticides and herbicides on the site.
5. The applicant will provide the Town with a copy of the Phase I environment survey.

All in favor. So voted.

**4. Applicant: West Main Solar 2, LLC, Owner: Regal, LLC, Location – AP 30, Lot 8 – West Main Road (0.1 miles south of Lehigh Terrace) – Request for Advisory Opinion to Zoning for a 3.1 MW DC, Ground-mount, Solar Photovoltaic Facility**

Atty. Helen Anthony, Handy Law, LLC, 42 Weybosset Street, Providence, RI appeared representing the applicants, West Main Solar 2, LLC, with a request for a recommendation for a special use permit to the Zoning Board of Review for a major solar photovoltaic facility proposed for a 24-acre site, which is zoned R-20. It is located along the east side of West Main Road just south of Lehigh Terrace. Atty. Anthony noted that the total development area is 7.5 acres, comprising 31% of the site area. She introduced Scott Milnes and Steve Kerr, developers, West Main Solar 2, LLC, Andrew Vardakis, the project engineer and Kevin Alverson, the project landscape architect. She asked Mr. Vardakis to present the design plan.

Andrew Vardakis, P.E., Wood Environment & Infrastructure Solutions, Inc., 275 Promenade Street, Providence, RI reviewed two attachments of the submitted master plan application: Attachment C, the design plan and Attachment F, the compliance requirements for major solar energy systems according to the Town Ordinance, Chapter 405 Zoning, Article XX: Solar Energy Systems (SES). He highlighted the following details of the design plan:

- The eastern wetland line is delineated further to the west on the existing conditions plan as compared to the previously presented concept plan.
- The proposed plan is modified to reflect the change to the wetlands delineation line. The proposal requires a wetlands permit from RIDEM.
- The minimum, fifty-foot, no cut buffer (set back) is indicated around southern, western and northern portions of the site.
- The 7.5-acre project solar array is surrounded by a 6-foot, chain linked fence.
- The tree clearing area extends beyond the fence line to the no cut buffer (set back) at the limit of disturbance (LOD) and tree cut lines.
- The access road is located on the western boundary at West Main Road. It is curved or jogged to obscure the view of the array entrance.
- The energy collection from the solar panel inverters is through underground conduit to two equipment pads and then to a utility pole, located along the access road, which transfers the electrical energy to the main grid on West Main Road.
- The stormwater maintenance design is set to a 100-year storm plan.
- The language regarding the use of herbicides and pesticide in item 16 of Attachment F of the master plan application will be redacted to be consistent with the landscape plan.

At the request of Atty. Anthony, Kevin Alverson, Landscape Architect, 360 Annaquatucket Road, Wickford, RI reviewed Attachment D, the landscape plan of the master plan application. He highlighted the following details of the landscape plan:

- Evergreen plantings will buffer the view angles along the access road.
- A large grove of mature trees, including cedars, exists in the northern area of the site. These trees will be moved to comprise some of the supplemental plantings along the perimeter of the site.
- Unhealthy trees in the no cut buffer will be removed and replaced.
- The plan indicates a dense evergreen area along the northwest portion of the limit of disturbance (LOD) line.
- The no cut buffer (set back) has existing dense tree areas. Tree trimming may be necessary to limit the array from shading.
- The array is situated so as to ensure the minimal amount of disturbance to the site.
- The landscape plan is conceptual. Changes may be made upon field review and inspection so as to ensure the intent of the landscape plan,

- which is to obscure the view of the solar panels from the abutters.
- The recommendations, specifically for evergreen plantings, set forth in the Advisory Opinion from the Town of Portsmouth Design Review Board (DRB), dated March 16, 2021, are incorporated into the landscape plan.
  - The ground cover for the array is short grow grass which establishes a field habitat for pollinators, small animals and avian species.

Mr. Bissonnette called for public comment.

Theresa Capelo, abutter, 7 Lehigh Terrace, Portsmouth, commented that she shares the concerns of the abutters to the West Main Solar 1 projects. She is affected by the US Navy solar project on West Main Road because she owns and operates the Shell Lube facility across the street. She is concerned about National Grid's sale of Rhode Island customers to the Pennsylvania based, PPL Corporation and the rising cost of electrical service to customers. In light of these concerns, she asked about the benefits of solar development for Aquidneck Island and Portsmouth consumers.

Scott Milnes, principal, West Main Solar 1, LLC stated that, beyond upholding the intent of the town's solar ordinance to support solar energy, there are tangible tax benefits to the town. He also noted that solar development is part of the State's plan to meet established goals in reducing carbon production. He agreed to work with Ms. Capelo to establish plantings that will create a suitable screen for her property.

Mr. Bissonnette closed the public comment portion of the hearing. Atty. Anthony agreed to enter into the record, as Exhibit I, the Advisory Opinion from the Town of Portsmouth Design Review Board (DRB), dated March 16, 2021. She made closing comments and requested a favorable advisory opinion from the Planning Board to the Zoning Board of review. Mr. Asciola noted that, as a condition of the favorable advisory opinion, the developer should provide certain incomplete items to the application.

**MOTION:** Mr. Lopes made a motion, seconded by Mr. Harding, to make a favorable recommendation to the Zoning Board of Review for West Main Solar 2, LLC, Owner: Regal, LLC, Location – AP 30, Lot 8 – West Main Road (0.1 miles south of Lehigh Terrace) based on the following conditions:

1. The Advisory Opinion from the Town of Portsmouth Design Review Board (DRB), dated March 16, 2021, is entered into the record as Exhibit I and the recommendations set forth in the advisory opinion are incorporated into the plan.
2. The project receives a RIPDES permit from RIDEM and the stormwater management controls are set to a 100-year storm plan.
3. Under item 16, Appendix F of the master plan application, the language that specifies the use and application of herbicides and pesticides is

redacted.

4. The project Operations and Management plan will include provisions for the maintenance of trees, the removal and replacement of dying trees and the disallowance of the use of pesticides and herbicides on the site.
5. The applicant will provide the Town with a copy of the Phase I environment survey.
6. The project receives a Wetlands permit from RIDEM.
7. The applicant is required to use the native species of red cedars highlighted in the red area and noted on Sheet L-1, Overall Concept Landscape Plan.
8. The applicant is required to work with the abutter at 7 Lehigh Terrace, Portsmouth on a sufficient buffer screening.
9. The applicant will complete the master plan application by providing the following Planning Department requirements:
  - The name and contact information for the representative and operator of the solar array installation firm.
  - A schedule and time frame for the construction phase
  - A RIDOT Physical Alteration Permit
  - A Preliminary Determination Application from RIDEM Freshwater Wetlands Section.
  - A notation of the pollinator friendly seed mixture in the notes section of the application
  - The annual tax revenue plan
  - The decommissioning plan
  - A photo rendering of the completion of the project.

All in favor. So voted.

**5. Approve April 14, 2021 Monthly Project Status Report, Administrative Subdivisions and Plat Plan Recording.**

**MOTION:** Mr. Harding made a motion, seconded by Mr. Lopes, to accept the Portsmouth Planning Board Monthly Project Status Reports, Administrative Subdivisions and Plat Plan Filings, April 14, 2021 and to place it into the record. All in favor. So voted.

At 9:47 p.m., a motion was duly made and seconded to adjourn the meeting. All in favor. So voted.

Respectfully submitted:  
Dede Walsh  
Recording Secretary for:

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Leon Lesinski  
Administrative Officer

