

**RE: 99 Bow St**

**Meeting: Sept 1, 2021**

Dear Historic District Commission,

The requested increase in deck area is very disheartening. The NHDES application states this project is a "Major Impact Project". It seems two of the larger rock formation will be completely covered by this "new" deck. These rocks, not only provide character, show how difficult it was to construct these buildings but also provide protection for many seabirds which frequent this area.

This location already received an addition to the existing deck in 2015. However, that size is not clearly stated in the HDC video presentation. C2, A9 and exhibit 3/E each show a different legend (1"=10', 1/8"= 1', 1/16"= 1') and size of the updated 2015 deck. There is a small panhandle not included because the latest proposal shows them in the new areas.

**The question that looms is how big was the deck approved for in 2015 per city records? How big is it really?**

The meeting on June 3, 2015, pages 7 to 10 of the HDC Minutes show some issues which arose and were discussed.

<http://files.cityofportsmouth.com/agendas/2015/hdc/hdc060315m.pdf>

The public easement is discussed in detail in the 2015 video. The applicant specifically states **the easement for the public as about 20' X 25'**. Looking at this "new" proposal the public access seems **significantly smaller**. **Exhibit A9 (pg 12) shows the public access will be 21' X 10'** with a planter between it and a larger hostess/waiting area for restaurant guests. **How big was the public easement agreed upon in 2015 and how can that change to a smaller size?**

The applicant stated in 2015 that the building was under NHDES and USACE jurisdiction yet the deck is connected to and supported in part by the original building *which implies city regulations*.

The NHDES permit from 07/06/21 for this address shows a change of 2901sf of decking/dock and yet the city proposal shows about 2455 sf.

It doesn't matter how pretty this deck looks and how much art is added to it to this area. The destruction of the historic look of Portsmouth's iconic Bow Street view with the tug boats and impact the needed new pilings will have on the river bed should not be ignored. It's one thing to update an old deck. It's another **to add 2400sf** to an existing deck which is somewhere between 500sf to 744sf. **This is about a 480% increase in capacity with a decrease in public space and no additional parking**. The benefit to the public is none! Covering of the rock formations will change the natural look and wildlife use of this area. The large increase in seating capacity will negatively affect parking and public safety.

During Covid Portsmouth tried to support its local businesses. What makes Portsmouth successful with so many restaurants is their maximum capacity allows many to exist and thrive in one small area. Be aware that all the art and public access will not offset allowing this much of an increase in a deck which may change the future of entire Portsmouth waterfront.

Please do NOT approve this massive increase in decking. The effects on the visual, business, parking, residential and natural aspects of Bow Street will forever be negatively impacted.

Respectfully,

Elizabeth Bratter

Portsmouth Property Owner

159 McDonough St.

September 1, 2021

Via email

The Historic District Commission  
City of Portsmouth  
City Hall, 3<sup>rd</sup> Floor  
1 Junkins Avenue  
Portsmouth, NH 03801

RE: Petition of Martingale, LLC  
Subject Property: 99 Bow Street, Portsmouth NH, Tax Map #106, Lot #54

Dear Commission Members:

This office represents a direct abutter to the above identified property, BowPorts EV, LLC (“BowPorts”) which is the owner of Unit 2 at 111 Bow Street. We understand that the Applicant sent the individual members a letter regarding its application. We ask that this please be provided to each of the members prior to the work session scheduled for tonight. Please consider the following:

1. When the Martingale created the existing deck in 2011 it did so while advising that it would not ask for more. (See Exhibit 1, Page 1 – Page 3, Minutes of Conservation Commission Meeting, May 9, 2012)(stating that the deck was “limited to building along the shoreline” and “docking structure would *not extend any further out* than the other docking structures in the area.”)

This is why in 2015, the first time that the Martingale requested expansion despite its representations just a few years earlier that it would not, the Conservation Commission *denied* approval of a request to recommend that the DES approve a Dredge and Fill permit. (See Exhibit 1, Page 4 – Page 6, Minutes of Conservation Commission Denial, “the motion to recommend approval of the application to the State Wetlands Bureau failed to pass)

A re-hearing of the HDC’s 2015 decision was scheduled. The Applicant withdrew their request which “invalidates the Certificate of Approval.” (Exhibit 1, page 7).

2. It is important to note that the Applicant’s existing building and deck required many variances. What the Applicant ultimately requested and the City approved *eliminated* the public view and access to the waterfront from Bow Street. So the issue that the Applicant now purportedly seeks to address (lack of public access to the waterfront) is something that it created.

Similarly, if it was truly the Applicant's motivation over the last ten (10) years it could have and would have provided public access and/or handicap access to its deck. It raised this issue in 2015. Clearly, this is something that it has considered. Rather than implement it, though, it is again using this as a way to color what is obviously the true intent of its project – to massively expand its existing business which is already over scale for the area. The Applicant already advertises itself as the “**BIGGEST DECK IN PORTSMOUTH.**” (See Attached Exhibit 2, page 10, Photo of Martingale Sign).

3. The Applicant's identification of abutting properties that allegedly are of equal or greater mass is perplexing. *Some* of these entities have small decks. These are generally smaller than the existing Applicant deck which, again, is the “Biggest deck in Portsmouth.” Several of the properties (i.e., 111 Bow and 113 Bow) do not have decks at all.
4. There is not consent of the abutters. The Applicant knows this. Yet it continues to represent otherwise. All that has occurred is that one individual, John Samonas, privately conferred his consent. Two other owners, BowPorts (Unit 2) and Marjan Frank and George Glidden (Unit 3), object. One individual's position does not represent that of the 111 Bow Street Condominium Association (“Association”). Its By-Laws state that all action that may occur at a meeting may *only* be taken without a meeting with the approval of and in writing signed by *all* unit owners. (By-Laws, Art. III, Sec. 5) There is no writing – signed by *all* unit owners—conferring consent.
5. Erecting “visual buffers” such as large statues and sculptures does not rectify the harm that such a massive expansion causes to abutting properties. In many ways, its makes it worse because rather than seeing existing nature and existing waterscape, abutters will be seeing the *backs* of these sculptures – that purportedly depict waterscape images. So, we again ask that the HDC consider the propriety of taking away nature and replacing it with one person's artistic images of . . . . nature.

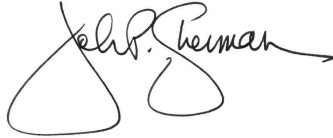
Portsmouth HDC Response to Applicant letter

Page 3 of 3

September 1, 2021

We welcome the opportunity to address these issues further with the Commission. If there are any questions or we can provide further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "John P. Sherman". The signature is written in a cursive style with a long horizontal stroke at the end.

John P. Sherman

Cc: Client  
Sherry Young, Esq. counsel for Martingale, LLC (via email)  
Nick Cracknell, City of Portsmouth (via email)  
Peter Britz, City of Portsmouth (via email)  
Marjan Frank and George Glidden (via email)  
John Samonas (via email)  
David Price, NH DES (via email)  
Stephanie Giallongo, NH DES (via email)  
Juliet Walker, City of Portsmouth (via email)

**REGULAR MEETING  
CONSERVATION COMMISSION  
1 JUNKINS AVENUE  
PORTSMOUTH, NEW HAMPSHIRE  
CONFERENCE ROOM "A"**

**3:30 P.M.**

**MAY 9, 2012**

**AGENDA**

**I. OLD BUSINESS**

- A. Approval of minutes – April 11, 2012

**II. CONDITIONAL USE PERMIT APPLICATIONS**

1. 545 F.W. Hartford Drive  
Kenneth M. Buttermore, owner  
Assessor Map 250, Lot 97

**III. STATE WETLANDS BUREAU PERMIT APPLICATIONS**

- A. Standard Dredge and Fill Application  
200 Grafton Road, Pease Golf Course  
Pease Development Authority, owner  
Assessor Map 320, Lot 0
- B. Standard Dredge and Fill Application  
99 Bow Street  
Martingale Wharf Limited Partnership, owner  
Assessor Map 106, Lot 54
- C. (Work Session) Standard Dredge and Fill Application  
NH Department Of Transportation  
Lafayette Road Improvements  
Assessor Map244, Lot 3  
Lafayette Road Right-of-way

**IV. OTHER BUSINESS**

1. Discussion of Conservation Commission vacancies

**V. ADJOURNMENT**

Chairman Miller asked if there were anymore questions for the applicant. Hearing none, he asked for a motion.

Vice Chairman Blanchard made a motion to recommend approval of the application to the State Wetlands Bureau. The motion was seconded by Mr. DiPentima. Chairman Miller asked for discussion.

Vice Chairman Blanchard stated that she had expressed her concern about the general nature of the business which was golfing and the way the turf was managed. She said that she appreciated the fact that the engineering was better but that she would like to see an improved system of monitoring the run off. On the merits of what was in front of them, the project would improve the site.

Mr. DiPentima commented that the golf course has existed since 1901. He felt the project seemed to improve what was there in terms of run off and discharge from the site. It might not be perfect but he felt it was worthy of approval.

Ms. Tanner agreed with what had been said but added that she wondered if there was any way to recommend monitoring and that the latest best practices are used. Chairman Miller commented that he would like to see something like that. At this point, there was considerable discussion as to what monitoring would be recommended.

Vice Chairman Blanchard amended her motion to include the following stipulations:

- 1) That turf management practices are consistent with best management practices and evolving scientific improvements to reduce nitrogen loading.
- 2) That any mitigation plans include monitoring the input and output of nitrogen and other nutrients and pesticides to and from the site.

Mr. DiPentima stated that he felt the stipulations were reasonable. He said that the PDA was a State entity and they should be setting the example for the rest of the industry especially in such a sensitive area.

Hearing no other discussion, Chairman Miller called for the vote. The motion to recommend approval of the application to the State Wetlands Bureau with the following stipulations passed by a unanimous (7-0) vote:

- 1) That turf management practices are consistent with best management practices and evolving scientific improvements to reduce nitrogen loading.
- 2) That any mitigation plans include monitoring the input and output of nitrogen and other nutrients and pesticides to and from the site.

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B. Standard Dredge and Fill Application  
99 Bow Street



Martingale Wharf Limited Partnership, owner  
Assessor Map 106, Lot 54

Mr. Zach Taylor of Riverside and Pickering Marine Contractors was present to speak to the application. He stated that they would like to construct a new dock along the shoreline. It would be a floating dock structure approximately 10 feet wide and 143 feet in length but it would be designed a bit differently than the traditional dock. It would be a pie shaped structure. He pointed out that the ramp and float would be seasonal structures.

Mr. Taylor explained that the existing wharf has gone through the Department of Environmental Services a few times. The wharf has been permitted for five boat slips but currently there are no boat slips. It was now just a wharf that can only be accessed at high tide and on a calm day. Mr. Taylor said that the purpose of the project was to provide that access.

Mr. Taylor told the Commission that they were limited to building along the shoreline instead of wharfing out because they were in the federal navigable project setback. He said that the new wharf system would provide access down to the supporting dock system and landing. He explained in detail the conditions of the area that warranted a different approach to the project.

According to Mr. Taylor, the impacts would be minimal since there was no emergent vegetation or eel grass in the area and was essentially a previously disturbed site. He pointed out that it was a historical area and a maritime location. He added that the docking structure would not extend any further out than any of the other docking structures in the area.

Mr. DiPentima asked if the harbormaster was included in the planning process. Mr. Taylor replied yes and added that the Army Corp of Engineers had reviewed the project as well.

Vice Chairman Blanchard commented that it would be wall to wall wood down on the river. Mr. Taylor told the Commission that he looked at old photos of the area that showed an entire strip of wharf that wrapped down to what was now Harbour Place.

Ms. Tanner commented that she recently saw a Moran tugboat go right by the area where the structure was proposed to be built.

Ms. McMillan asked how large the boats would be that would be accessing the dock. Mr. Taylor said that the size would be limited to a 20-25 foot boat in order to use the five slips. Mr. Vandermark asked if larger boats would be restricted. Mr. Taylor said no but it would reduce the number of slips available when a larger boat was docked there.

Hearing no other questions, Chairman Miller asked for a motion. Vice Chairman Blanchard made a motion to recommend approval of the application to the State Wetlands Bureau. The motion was seconded by Mr. Vandermark. There was no discussion.

The motion to recommend approval of the application to the State Wetlands Bureau passed by a unanimous (7-0) vote.

**ACTION SHEET  
CONSERVATION COMMISSION**

**1 JUNKINS AVENUE  
PORTSMOUTH, NEW HAMPSHIRE  
EILEEN DONDERO FOLEY COUNCIL CHAMBERS**

**3:30 p.m.**

**June 10, 2015**

**MEMBERS PRESENT:** Chairman Steve Miller; Vice Chairman MaryAnn Blanchard;  
Members, Barbara McMillan, Kimberly Meuse, Kate Zamarchi;  
Alternates Samantha Wright, Adrienne Harrison

**MEMBERS ABSENT:** Allison Tanner, Matthew Cardin

**ALSO PRESENT:** Peter Britz, Environmental Planner/Sustainability Coordinator

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**I. APPROVAL OF MINUTES**

1. April 8, 2015
2. April 29, 2015
3. May 13, 2015

It was moved, seconded, and passed unanimously to approve the minutes as presented.

**II. CONDITIONAL USE PERMIT APPLICATIONS**

- A. 200 West Road  
Micronics, Inc., owner  
City of Portsmouth, applicant  
Assessor Map 267, Lot 22

The Commission voted to recommend approval of the application to the Planning Board as presented.

- B. 1163 Sagamore Road  
Chinburg Builders, owner  
Assessor Map 224, Lot 17

At the applicant's request, the Commission voted to postpone review of the application to the July 8, 2015 meeting.



- C. 3201 Lafayette Road  
Hillcrest at Portsmouth, LLC, owner  
Assessor Map 291, Lot 7

The Commission voted to recommend approval of the application to the Planning Board as presented with the following stipulations:

1) The applicant shall include in the Site Plan a comprehensive water resource management plan (utilizing tools such as pavers, drainage systems, drip edge, and other best management practices for stormwater) as well as invasive management to include potential restriction of further future development in the wetland buffer proximal to the Berry Brook Watershed.

2) The applicant shall install pervious pavers on all walkways.

- D. Borthwick Avenue (amendment)  
Public Service Company of New Hampshire, owner  
Assessor Map 234, Lots 1, 2, 3, 7-4A, 7-7, 7-3

The Commission voted to recommend approval of the application to the Planning Board as presented.

### III. STATE WETLANDS BUREAU PERMIT APPLICATIONS

1. Standard Dredge and Fill Application  
200 West Road  
Micronics, Inc., owner  
Assessor Map 267, Lot 22

The Commission voted to recommend approval of the application to the State Wetlands Bureau.

2. Standard Dredge and Fill Application  
99 Bow Street  
Martingale, LLC  
Assessor Map 106, Lot 54

The motion to recommend approval of the application to the State Wetlands Bureau failed to pass.

**IV. OTHER BUSINESS**

- A. Discussion about 6.6 acre conservation land donation

No action was taken.

**V. ADJOURNMENT**

At 7:35 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Liz Good  
Planning Department Administrative Clerk



# CITY OF PORTSMOUTH

Community Development Department  
(603) 610-7232

Planning Department  
(603) 610-7216

## PLANNING DEPARTMENT

### HISTORIC DISTRICT COMMISSION

**Date:** August 10, 2015

**To:** Keith Eveland  
Bowports EV Corporation  
111 Bow Street  
Portsmouth, NH 03801

John P. Sherman, Esquire  
Sherman Law, PLLP  
155 Fleet Street  
Portsmouth, NH 03801

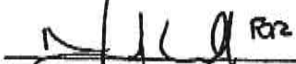
**Re:** 99 Bow Street request for Re-Hearing

The Historic District Commission considered your proposal at its meeting of August 5, 2015 wherein permission was requested to allow a re-hearing of the Certificate of Approval granted on June 3, 2015 as per plans on file in the Planning Department.

As a result of the above request, Martingale, LLC, owner for the property located at 99 Bow Street has withdrawn their Building Permit #15-409 from consideration at this time. This action invalidates the Certificate of Approval granted by the Historic District Commission on June 3, 2015. A new application and public hearing will be required if this project commences moving forward.

The minutes and tape recording of the meeting may be reviewed in the Planning Department.

Respectfully submitted,

  
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Joseph Almeida, Chairman  
Historic District Commission

JA/lg  
cc: Robert Marsilia, Building Inspector  
Rosann Maurice-Lentz, Assessor  
Martingale, LLC, Owner

1 Junkins Avenue  
Portsmouth, New Hampshire 03801  
Fax (603) 427-1593





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Biggest Deck in Portsmouth”  
(6/7/15)



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