



***Town of Moultonborough***  
***Planning Board***

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**Notice of Decision**  
**Site Plan Review Permit**  
**Big Dog Holdings, LLC**  
**Tax Map 18 Lots 37, 39 & 40**

May 17, 2023

Applicant: Big Dog Holdings, LLC  
125 Governor Wentworth Highway  
Moultonborough, NH 03254  
Location: Whittier Highway (Tax Map 18 Lots 37, 39 & 40)

On April 12, 2023 and May 10, 2023, the Planning Board of the Town of Moultonborough opened public hearings on the application of Big Dog Holdings, LLC, 125 Governor Wentworth Highway, Moultonborough, NH 03254 (hereinafter referred to as the "Applicant" and/or "Owner") to construct and operate a bulk fuel facility at Tax Map 18 Lots 37, 39 & 40 located in the Commercial Zone B.

Board Member John Annaian recused himself and Board Chairman Allen Hoch appointed Alternate Member Peter Claypoole to serve Mr. Annaian's place.

Prior to acceptance of the application as being complete, the Planning Board voted six (6) in favor (Larson, Claypoole, Bartlett, Connolly, Quinlan, Hoch) that the proposed site plan did not have the potential for Regional Impact.

The Planning Board voted seven (7) in favor (Larson, Claypoole, Bartlett, Kelly, Connolly, Quinlan, Hoch) and none opposed to grant the waiver for color renderings of the streetscape because the applicant has provided photographs of the streetscape which is to be maintained as a buffer.

The Planning Board voted seven (7) in favor (Larson, Claypoole, Bartlett, Kelly, Connolly, Quinlan, Hoch) and none opposed to grant the waiver for NH DES Approval for Construction for on-lot sewage systems (Site Plan Review Section 10.4.1) because Sheet C0.2, Note 3 under Required Permits states that the project requires NH DES individual sewage system disposal approval and because obtaining the permits can be addressed as a condition precedent to any possible approval.

The Planning Board voted seven (7) in favor (Larson, Claypoole, Bartlett, Kelly, Connolly, Quinlan, Hoch) and none opposed to grant the waiver for NH DOT Driveway Permit (Site Plan Review Section 10.4.2) because Sheet C0.2, Note 1 states that prior to construction, the owner shall obtain NH DOT Driveway Permits and because obtaining the permits can be addressed as a condition precedent to any possible approval.

At the regularly scheduled Planning Board meeting on May 10, 2023, the Board discussed the request for Site Plan Review and noted the following Findings of Fact:

- a) As designed, this is a reasonable request for the applicant's use of his land for the stated purpose.
- b) The Applicant was granted a special exception on 4/5/2023 for a bulk fuel facility in the Commercial B Zone, pursuant to Zoning Article 6.3..
- c) The Board determined that the findings of a third party engineer review of the proposal had been substantially addressed.
- d) The proposal complies with the Zoning Ordinance and Site Plan Review Regulations.

The Board voted by a vote of seven (7) in favor (Larson, Claypoole, Bartlett, Kelly, Connolly, Quinlan, Hoch) and none opposed to **approve** the Site Plan to construct and operate a bulk fuel facility at Tax Map 18 Lots 37, 39 & 40, subject to the following conditions:

Conditions precedent, to be completed prior to signature of final plans by the Planning Board Chairman:

1. Add the following plan notes/revisions prior to submission of final plan for Planning Board signature:
  - a. Redesign northerly driveway to comply with Zoning Article 3.12 or obtain and reference a variance from the ZBA allowing for a slope greater than 6 percent within the 50 feet of the roadway.
  - b. Depict ingress, emergency egress and fire lanes.
  - c. Depict emergency generator.
  - d. Depict snow storage areas.
  - e. Add details and specifications for underground holding tank for temporary storage of floor drain discharge.
  - f. Note hours of operation and number of employees.
  - g. Note lot coverage in compliance with Zoning Article 6.6.3
  - h. Note that the buffer easement on Lot 37 will be recorded in the deed of the property and maintained in perpetuity.
  - i. Update Landscaping Plan to comply with all requirements of Site Plan Review Section 11.3.2.
  - j. Eliminate Note 1.5 on Sheet C0.2 under General Notes that states that the proposed site will be serviced by city water and sewer. This note conflicts with note 15 on Sheet C1.1.
  - k. Address all "Planning/Design Matters" identified in the Town Engineer's 5/3/2023 memorandum.
  - l. Reference 4/5/2023 special exception approval that was obtained from the ZBA to allow the petroleum bulk plant or terminal use, including all conditions of approval.
  - m. Reference recorded easements/agreements for each of the shared driveways.
  - n. Reference approval of the merger of lots 39 and 40, to include CCRD book and page.
  - o. Reference NH DES Septic approvals, to include approval numbers and dates.
  - p. Reference NH DOT driveway permit approvals, to include approval numbers and dates.
  - q. Reference NH DES Underground Fuel Storage Tank Construction permits, to include approval numbers and dates.
  - r. Affix wet stamps and signatures of all professionals and scientists.
  - s. Obtain signature of owner within designated signature block on site plan and cover page.
  - t. All conditions subsequent shall be included as plan notes.
2. Submit to the Land Use Department a spill prevention, control, and countermeasure plan in accordance with the requirements of Zoning Article 13.6, subject to approval by the Fire Department.
3. All required federal, state, and local approvals shall be obtained, including fuel tank, septic



- construction, building and driveway approvals.
4. All third-party review costs shall be paid in full.
  5. The applicant, or his successors or assigns, shall file security with the Planning Board with surety conditions satisfactory in an amount proposed by the applicant's engineer, subject to the approval of the Town Engineer, to guarantee proper installation and maintenance of erosion and sedimentation controls throughout the duration of construction, as well as site restoration in the event of abandonment, as well as security to provide for all necessary inspections and tests to be conducted by the Town Engineer. Said security shall be in the form of a surety bond issued by a surety company authorized to do business in New Hampshire, cash, or savings bank passbook properly endorsed to the Town, or a Letter of Credit in a form acceptable to the Town. The Planning Board may from time to time, at their discretion, and upon request by the applicant, its successors, or assigns, reduce the amount of such security to an amount sufficient to ensure that any and all remaining utility or roadway construction shall be able to be completed by the Town in the event that the developer does not complete the improvements. The security shall be approved by the Town Engineer and submitted to the Town of Moultonborough prior to the commencement of any construction activities on the project site.
  6. Any remaining recommendations and revisions provided by the Town Engineer shall be addressed to the Engineer's satisfaction, and all utility and infrastructure systems shall obtain final approval of the Town Engineer.
  7. Conditions precedent to be completed by 5/10/2024.

Conditions subsequent, to be continually complied with:

8. Approved uses include bulk fuel facility uses as presented to the Zoning Board of Adjustment and the Planning Board. The Land Use Office shall be notified of any additional changes that could constitute a change or expansion of use, as land use approvals, including site plan review, may be required.
9. Owner/applicant shall demonstrate the underground holding tank for temporary storage of floor drain discharge has been properly registered with the NHDES, consistent with provisions of Part Env-Wq 402.39 of the New Hampshire Code of Administrative Rules, prior to issuance of a certificate of occupancy for the planned garage facility.
10. Approved commercial uses shall not be commenced and Certificate of Occupancy shall not be issued until all proposed improvements have all been installed and operationally approved.
11. Uphold and maintain spill prevention, control and countermeasure plan.
12. Snow shall be placed within designated snow storage areas.
13. Exterior lighting shall comply with Zoning Article 6.6.5.
14. Landscaping shall comply with Site Plan Review Sections 11.3.1 and 11.3.4.
15. All signage shall comply with Zoning Article 5 and Site Plan Review Section 11.2.
16. All construction-phase and permanent drainage structures and stormwater management facilities shall be maintained to perform as represented and intended, and reports of all annual stormwater inspections shall be submitted to the Land Use Office on or before July 1 of each year.
17. All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.
18. Per Site Plan Review Section 8.2, if substantial site work has not commenced or a Building Permit has not been issued or if a Building Permit has been issued but not substantially acted upon within a 2-years of the date of approval, the site plan shall lapse unless a request for extension for an additional 1-year period is obtained by the applicant, prior to the date of lapsing.
19. If, at any time, uses are abandoned in accordance with the definition of abandonment in the Zoning Ordinance, necessary approvals shall again be obtained before such uses may resume.

**Amendments**

Any modification to the approved plans and any modification of any condition of this approval, together with previous approvals unless otherwise specified in this decision, must receive the prior approval of the Planning Board, unless deemed insignificant by the Town Planner. In such case the applicant shall submit to the Planner the requested changes who shall seek Board approval of the changes. The applicant will not proceed unless the Planner first provides written approval of the requested insignificant changes.

**Endorsement of Plan**

Following the vote of approval by the Planning Board, and the satisfaction of all conditions precedent, the Planning Board Chairman shall sign the approved site plan, subject to conditions of this approval. The conditions subsequent of approval of this site plan review shall be placed on the final plans, and the Planning Board Chair shall sign the final plans prior to any construction commencing.

**Construction Practices**

All construction shall be carried out in accordance with Town of Moultonborough ordinances and the Site Plan Regulations, as well as all other pertinent rules and regulations. Additionally, all staging of materials and equipment shall be on-site, and no equipment or materials not directly used in the construction of the site shall be located on site.

**Construction Requirements**

- a. All construction will occur on site; no construction will occur or be staged within Moultonborough, or State of New Hampshire rights of way.
- b. Any roadways, driveways, or sidewalks damaged during construction shall be restored to their original condition by the Owner at the end of construction.
- c. All construction shall occur between the hours of 6:00 am and 9:00 pm as required by the Town of Moultonborough Unnecessary Noise Ordinance (Section 10.2(6)).
- d. The applicant shall clean construction vehicles before they exit the construction site, and clean and sweep all streets affected by their construction truck traffic as necessary.

**Site Plan Regulations**

The Site shall be constructed in accordance with the requirements of the Site Plan Regulations and any other applicable rules and regulations as affected by this decision.

**Fire Department**

All work shall comply with the requirements of the Moultonborough Fire Department as affected by this decision.

**Office of the Building Inspector**

All work shall comply with the requirements of the office of the Moultonborough Building Inspector as affected by this decision.

**Utilities**

Any utility installation shall be reviewed and approved by the Moultonborough Building Inspector prior to the issuance of a Building Permit.

**Lighting**

All lighting shall be in conformance with the Town of Moultonborough Zoning Ordinance and Site Plan Regulations.

**Flagging of Wetlands**

Flagging of the 50-foot buffer shall be required before and during any construction.



**Wetlands Impacts**

- a. Soil disturbance will be the minimum necessary for construction and operation through the use of BMPs.
- b. Detrimental impacts will be minimized.
- c. Temporary barriers shall be placed between wetlands and buildings to reduce litter and construction materials from entering wetlands. Barriers to be removed upon completion.
- d. Restoration activities will leave site as nearly as possible in its pre-disturbance condition.
- e. Construction work will not disturb habitat for rare, threatened, or endangered species as determined by the NH Natural Heritage Bureau.
- f. All work shall be in conformance with NH DES Permits.

**Best Management Practices**

Applicable industry Best Management Practices shall be employed for all construction activities on the site.

**Maintenance**

A signed Maintenance Agreement shall be submitted to the Land Use Office for acceptance prior to endorsement of the plans. Said Maintenance Agreement shall include schedules for cleaning of all drainage infrastructure and other similar infrastructure maintenance items to ensure their proper functioning and shall include the following:

- a. Refuse removal, ground maintenance and snow removal shall be the responsibility of the applicant.
- b. Winter snow in excess of snow storage areas on the site shall be removed off site.
- c. Paved areas shall be swept at least twice a year to remove sand and debris. Said sand and debris shall be removed off site and properly disposed of.
- d. Where necessary, and in compliance with wetland buffer requirements, vegetation on the site shall be trimmed and maintained to ensure visibility of all signs and to ensure proper functioning of stormwater structures.
- e. Garbage and litter shall be removed in and around wetlands twice a year.
- f. Invasive species shall be removed in and around wetlands twice a year.
- g. Only native species shall be planted.
- h. A schedule for cleaning of catch basins, culverts, and other stormwater infrastructure for the site.

**Signage**

Any proposed signage shall be in compliance with the Town of Moultonborough Zoning Ordinance, Article 5, and shall be reviewed and approved by the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy for the site.

**E-911 Numbering**

The site shall conform with the Town of Moultonborough Building Numbering System Ordinance (Section 20), prior to the issuance of a Certificate of Occupancy for the site.

**As-Built Plans**

As-Built plans, stamped by a NH Licensed Professional Engineer, shall be submitted to the Land Use Department prior to the issuance of a Certificate of Occupancy.

**Testimony and Representation at Public Meetings**

All testimony and representations made by the applicant or their representatives during the Public Hearing(s) and Public Meeting(s) shall be incorporated into this approval and are part of the Notice of Decision.

**Right to Amend Decision**

The Planning Board reserves the right to modify or amend this approval on application of the owner, lessee, or mortgagee of the premises, or upon its own motion, as permitted by the Town of Moultonborough Site Plan Regulations, Section 6, and RSA 676:4.

**Violations**

Violations of any condition of this decision shall result in placement of a Stop-Work Order or a Cease and Desist Order, as appropriate, on the property by the Building Inspector and/or the Select Board, unless the violation of such condition is cured within fourteen (14) days or waived by a majority vote of the Select Board. Outstanding violations of the approved plans or conditions of approval may result in the revocation of this approval by the Planning Board under RSA 676:4-a.

**Legal Fees for Review**

The applicant shall pay all legal fees for the review of project documents during the permitting process, as detailed in invoices from the Town's legal counsel prior to the issuance of any Permits for the site.

**Inspections**

The developer shall pay all costs associated with periodic on-site inspections by the Town's Consultant Engineer during the construction phase of all drainage and stormwater protection systems prior to the building being occupied. See RSA 676:4-b, II.



Allen Hoch  
Chairman

cc.

- David Frothingham, (by email only at [dfrothingham@wilcoxandbarton.com](mailto:dfrothingham@wilcoxandbarton.com))
- Scott Dvorak (by email only at [sdvorak@moultonboroughnh.gov](mailto:sdvorak@moultonboroughnh.gov))
- Tom Hughes, Town Assessor (by email only at [thughes@moultonboroughnh.gov](mailto:thughes@moultonboroughnh.gov))
- Map Lot Document File