

## Stephen J. Puleo

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**From:** Amanda L. Lessard  
**Sent:** Friday, May 12, 2023 3:02 PM  
**To:** Erik Heyland; Robert J. Burns; Tom H. Bartell  
**Cc:** 'Gaquin, Daniel'; 'Rick Salvo'; Stephen J. Puleo; Barry A. Tibbetts  
**Subject:** RE: {Disarmed} RE: Roosevelt

Erik,  
Yes, the Planning Board has approved projects using the FujiClean pretreatment system. In those instances the applicant still submitted a hydrogeological analysis where the nitrate analysis showed compliance with the Town's standard to meet the 10 mg/L nitrogen at the property line. So you would still require the Planning Board to waive the submission requirement of Section [120-811B\(2\)\(c\)](#). Staff would support this waiver request based on our experience with the groundwater impact analysis with this pretreatment system for other projects in Town and it would be reasonable for the Board to find that the information that would have been provided in a groundwater impact analysis is not required to determine compliance with the standards and criteria of the land use ordinance.

Please submit a written request in accordance with [Section 120-808A](#) (we don't need a form, just essentially what you've written below with the supporting DHHS approval letters), a revised plan for the engineering subsurface wastewater system/HHE 200 and we'll get you on the agenda for the next available meeting, which will be June 12. We would also add another condition of approval for DHHS approval of the revised the engineered system. My understanding from the Code Enforcement Director is that DHHS typically turns those around in a few days, so it would streamline things on our part if you could also obtain that DHHS approval before the Planning Board meeting instead of having another condition of approval that we need to keep tabs on.

Thanks,  
Amanda

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**From:** Erik Heyland <eheyland@heylanddevelopment.com>  
**Sent:** Thursday, May 11, 2023 8:43 AM  
**To:** Amanda L. Lessard <allessard@windhammaine.us>; Robert J. Burns <rjburns@windhammaine.us>; Tom H. Bartell <thbartell@windhammaine.us>  
**Cc:** 'Gaquin, Daniel' <DOGaquin@mintz.com>; 'Rick Salvo' <rsalvo@eaicivil.com>; Stephen J. Puleo <sjpuleo@windhammaine.us>; Barry A. Tibbetts <batibbetts@windhammaine.us>  
**Subject:** RE: {Disarmed} RE: Roosevelt

Amanda

We are considering an alternative wastewater pretreatment system called FujiClean to address the nitrogen loading performance. The FujiClean performance would provide nitrogen reduction at the discharge of the unit which would meet the required levels and eliminate the need for a waiver request. My understanding is that this system has recently been approved in town and is currently under construction on another project. The FujiClean system is approved by DHHS (see attached letter from DHHS). This treatment unit would simply replace the existing Septitech system. Given the performance of this system there is no need for a waiver request for groundwater protection. We would like to be put on the agenda for the next meeting for a final vote. Let me know if there is anything else you need for your review. Thank you

**Erik Heyland**



PO Box 407

Moody, ME 04054  
[eheyland@heylanddevelopment.com](mailto:eheyland@heylanddevelopment.com)  
207-451-8288

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**From:** Amanda L. Lessard <[allessard@windhammaine.us](mailto:allessard@windhammaine.us)>  
**Sent:** Friday, April 28, 2023 1:58 PM  
**To:** Robert J. Burns <[rjburns@windhammaine.us](mailto:rjburns@windhammaine.us)>; Erik Heyland <[eheyland@heylanddevelopment.com](mailto:eheyland@heylanddevelopment.com)>; Tom H. Bartell <[thbartell@windhammaine.us](mailto:thbartell@windhammaine.us)>  
**Cc:** 'Gaquin, Daniel' <[DOGaquin@mintz.com](mailto:DOGaquin@mintz.com)>; 'Rick Salvo' <[rsalvo@eaicivil.com](mailto:rsalvo@eaicivil.com)>; Stephen J. Puleo <[sjpuleo@windhammaine.us](mailto:sjpuleo@windhammaine.us)>; Barry A. Tibbetts <[batibbetts@windhammaine.us](mailto:batibbetts@windhammaine.us)>  
**Subject:** {Disarmed} RE: Roosevelt

Erik,  
There are no recent applications that were granted a waiver from the Site Plan Review groundwater protection performance standard of Section 120-812J as that standard has limited applicability to proposed developments that involve on-site water supply or a sewage disposal system with a capacity of 2,000 gallons per day or greater. There are few commercial developments in Windham that are not served by public water or propose a high capacity septic system. Bob sent you the groundwater impact analysis of the Badger Run Apartments application, the only other recent site plan application that proposed an engineered septic system and they provided evidence of compliance with the groundwater standard. You are welcome to review any project applications on file at the Town at any time. All Planning Board records are also online and attached to the respective meeting agendas where the project was reviewed at <https://windhamweb.legistar.com/Calendar.aspx>.

The Town Engineer's comments on the waiver in the memo are included in the [April 6, 2023 memo](#) findings under Section 120-812J in the Findings, but are shown in strikethrough text in error. All those same comments were included in the attached March 20, 2023 memo that had been included on the March 27<sup>th</sup> meeting agenda. The memo was updated with additional information when the meeting was postponed to April 10. The Town Engineer is only one member of staff and as such the staff recommendation under the waiver request section reflects a combined feedback from all staff members. At the meeting I was attempting to reflect the fact that the Town Engineer had researched the water service of abutting properties and was satisfied that they would not be impacted by your proposed septic system.

Amanda

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Amanda Lessard, Planning Director  
Town of Windham  
8 School Road  
Windham, ME 04062

office: (207) 894-5900 x 6121  
cell: (207) 400-7618  
fax: (207) 892-1916  
[www.windhammaine.us](http://www.windhammaine.us)

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**From:** Robert J. Burns <[rjburns@windhammaine.us](mailto:rjburns@windhammaine.us)>  
**Sent:** Wednesday, April 26, 2023 12:02 PM  
**To:** Erik Heyland <[ehayland@heylanddevelopment.com](mailto:ehayland@heylanddevelopment.com)>; Tom H. Bartell <[thbartell@windhammaine.us](mailto:thbartell@windhammaine.us)>  
**Cc:** 'Gaquin, Daniel' <[DOGaquin@mintz.com](mailto:DOGaquin@mintz.com)>; 'Rick Salvo' <[rsalvo@eaicivil.com](mailto:rsalvo@eaicivil.com)>; Amanda L. Lessard <[allessard@windhammaine.us](mailto:allessard@windhammaine.us)>; Stephen J. Puleo <[sjpuleo@windhammaine.us](mailto:sjpuleo@windhammaine.us)>  
**Subject:** RE: Roosevelt

Erik,

I forwarded you an email with attachments a moment ago that show examples of what planning staff is looking for in the way of professional documentation on the nitrogen in groundwater issue. My understanding after discussion with staff is that the request for a waiver from this requirement was the last stumbling block in keeping you from your approval on your development. If a hydrogeologist will certify that the Land Use Ordinance requirements can be met in a manner similar to the examples shown, then you are nearly certainly to gain approval by the Planning Board. That is my understanding from staff.

I have cc'd staff on your email and will discuss your other questions with them and respond.

Thanks,

**Robert Burns, PE**  
Assistant Town Manager | [rjburns@windhammaine.us](mailto:rjburns@windhammaine.us)  
Town of Windham | Office of the Town Manager  
8 School Road | Windham, ME 04062 | [www.windhammaine.us](http://www.windhammaine.us)  
Ph. 207.892.1907 Ext. 1129 | Fax 207.892-1910

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**From:** Erik Heyland <[ehayland@heylanddevelopment.com](mailto:ehayland@heylanddevelopment.com)>  
**Sent:** Tuesday, April 25, 2023 4:13 PM  
**To:** Robert J. Burns <[rjburns@windhammaine.us](mailto:rjburns@windhammaine.us)>; Tom H. Bartell <[thbartell@windhammaine.us](mailto:thbartell@windhammaine.us)>  
**Cc:** 'Gaquin, Daniel' <[DOGaquin@mintz.com](mailto:DOGaquin@mintz.com)>; 'Rick Salvo' <[rsalvo@eaicivil.com](mailto:rsalvo@eaicivil.com)>  
**Subject:** RE: Roosevelt

Hi Bob

Per our conversation last week, have you got any further information from the planning staff to resolve this waiver denial and provide direction. I would like to have my legal counsel come view previous application filings which were granted by the Board in recent years as they relate to the same waiver request of which we were denied. Can you please ask the planning department to cooperate and have this information available for our viewing as soon as possible. Let me know when we can expect this information.

I am also waiting for an explanation as to why the support comment from the engineer review was removed from the last memo and why it was presented incorrectly at the meeting.

Thank you

**Erik Heyland**



PO Box 407  
Moody, ME 04054  
[ehayland@heylanddevelopment.com](mailto:ehayland@heylanddevelopment.com)  
207-451-8288

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**From:** Erik Heyland <[eheyland@heylanddevelopment.com](mailto:eheyland@heylanddevelopment.com)>  
**Sent:** Tuesday, April 11, 2023 3:43 PM  
**To:** 'Robert J. Burns' <[rjburns@windhammaine.us](mailto:rjburns@windhammaine.us)>  
**Cc:** 'Tom H. Bartell' <[thbartell@windhammaine.us](mailto:thbartell@windhammaine.us)>; 'Gaquin, Daniel' <[DOGaquin@mintz.com](mailto:DOGaquin@mintz.com)>; 'Rick Salvo' <[rsalvo@eaicivil.com](mailto:rsalvo@eaicivil.com)>  
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Bob and Tom

At last night's meeting the Assistant Planner represented to the Board that the Town Engineer did not support the project when in fact he does (see attached March 30 memo). The April 6 memo says that the staff opposes this waiver and removed the support comment from the engineer in this latest memo. I corrected the assistant planner at the meeting when he represented these facts incorrectly but he ignored my response and convinced the Board into believing that the waiver should be denied when he fully understood that the Town Engineer was in support. At our recent meeting with the engineer he told us as well he supported this waiver request. The job of a planner is to present the true facts as they exist and not to present false information when such a critical vote is upon the Board. Unless the assistant planner has the qualifications and expertise in this area, he should not represent himself as a reliable source of information. In fact, the Planner's job is to present projects in an unbiased position and he should have NO opinion, and allow the voting members to arrive at their own conclusion.

At the last meeting in October the Board Chairman was very clear in stating that if there are no wells within 300' then this waiver is routinely granted which is why we provided the supporting information for the waiver request. It is our opinion that the Assistant Planner presented the Board with false information and we would request an explanation and correction be made to account for the true facts of the waiver request.

I look forward to your response.

Thank you

**Erik Heyland**



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Moody, ME 04054  
[eheyland@heylanddevelopment.com](mailto:eheyland@heylanddevelopment.com)  
207-451-8288

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**From:** Rick Salvo <[rsalvo@eaicivil.com](mailto:rsalvo@eaicivil.com)>  
**Sent:** Tuesday, April 11, 2023 2:46 PM  
**To:** [eheyland@heylanddevelopment.com](mailto:eheyland@heylanddevelopment.com)  
**Cc:** [sjpuleo@windhammaine.us](mailto:sjpuleo@windhammaine.us); 'Amanda L. Lessard' <[allessard@windhammaine.us](mailto:allessard@windhammaine.us)>  
**Subject:** Roosevelt

All:

See attached. I am confused as to why it was represented at last evenings hearing that Staff did NOT support he waiver request, when the attached memo clearly indicated that the Town Engineer was in support. See second page of PDF.

Rick

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**Engineering Alliance, Inc.**

Richard A. Salvo, P.E.

194 Central Street  
Saugus, MA 01906  
(Ph) (781) 231-1349  
(Fax)(781) 417-0020

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