

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

Applicants: University of Washington Friday Harbor Labs  
620 University Road  
Friday Harbor, WA 98250

File No.: PSJ000-10-0009

Request: Shoreline Conditional Use Permit

Parcel No: 350123001

Location: 620 University Road  
Friday Harbor, WA 98250

Summary of Proposal: 10' x 60' float and 36' x 48' building

Shoreline Designation: Conservancy

Hearing Date: January 6, 2011

Application Policies and Regulations: San Juan County Shoreline Master Program

Decision: Approved subject to conditions.

**S.J.C. COMMUNITY**

**JAN 25 2011**

**DEVELOPMENT & PLANNING**



## EXHIBITS

The 12/27/10 staff report and attached "application materials" are admitted.

### FINDINGS OF FACT

#### Procedural:

1. Applicant. The applicant is the University of Washington Friday Harbor Labs.
2. Hearing. The Hearing Examiner conducted a hearing on the subject application on January 6, 2011 at 10:00 am in the San Juan County Council meeting chambers.

#### Substantive:

3. Site and Proposal Description. The applicant proposes to construct a mesocosm float and a flume study research building. The mesocosm float is a 10' x 60' float structure with finger floats. The float will be 70% grated and the float structures will be shaped to minimize obstruction of sunlight to the waters below. The mesocosm float will serve as a small appendage to an existing dock system and will be accessed by a small walkway. The float would lie about fifteen inches above the water line. Suspended from the floats will be a series of clear and impermeable polyethylene bags containing seawater. The purpose of the bags will be to conduct experiments on the impacts of increased carbon dioxide levels on aquatic life. The float will only be placed in the water about six months per year.

The flume study building (36' x 48') will be connected to the seawater distribution system of the Friday Harbor Labs complex of buildings. The building must be located within 200 feet of the shoreline in order to use the Labs' seawater distribution system, since the system is a gravity system and more inland portions of the Lab complex would be above the elevation of the seawater holding tank.

4. Characteristics of the Area. The grounds of the Friday Harbor Labs total 475 acres. The entire property is largely wooded and its buildings are well-isolated from their neighbors, aside from the visible development on the shoreline. The lab buildings, dorms, dining halls, office, parking and maintenance facilities are concentrated in the south part of the property, linked by small drives that provide internal access. The site is also served by a large dock system. The grounds and dock are best depicted in the site plan of attachment 2 to the staff report entitled "Utility Control Structures".

5. Adverse Impacts of Proposed Use. There are no adverse impacts associated with the proposal. The float is fairly small, only extends fifteen inches above the waterline and poses no appreciable aesthetic impact or navigational obstruction within the context of the much larger existing dock system. The applicant

1 testified that the Army Corps of Engineers raised concerns about the presence of  
2 rockfish in the general area during hydraulic permit review, but the divers of the  
3 Friday Harbor Labs have found no rockfish specifically at the project site. As noted  
4 in the staff report, the flume study building is designed to be integrated into the  
5 design of the overall 425 acre Friday Harbor Labs complex. The large size of the  
6 property, the extensive amount of trees on site and the other buildings will conceal  
7 the proposed building from adjoining uses. The float structure will not create any  
8 appreciable adverse light impacts, since the float is small and extensively graded and  
9 the polyethylene bags are clear and will be filled primarily with sea water. There also  
10 is no eelgrass beneath the proposed float. The staff report provides that the project  
11 will not be within any critical areas except for an aquifer recharge area, which  
12 encompasses the entire county. The applicants have also prepared an archaeological  
13 study that has been reviewed by the Samish Indian Nation. The Nation submitted a  
14 letter (attachment 3 to the staff report) stating it had no concerns with the proposal.

## 15 CONCLUSIONS OF LAW

### 16 Procedural:

17 1. Authority of Hearing Examiner. The Hearing Examiner issues a final  
18 decision on shoreline conditional use permits, subject to approval by the Washington  
19 State Department of Ecology. Section 3.70 of the San Juan County Charter; RCW  
20 90.58.140(10).

### 21 Substantive:

22 2. Zoning Designations. The subject property is designated as Natural Lands  
(N) and the shoreline designation is Conservancy.

23 3. Permit Review Criteria. SJCC 18.50.260(B)(5) provides that institutional  
24 uses are allowed in the Conservancy environment with a shoreline conditional use  
25 permit. The general criteria for shoreline conditional use permits require consistency  
with the policies of the San Juan County Shoreline Master Program. Master Program  
policies for institutional uses are specifically implemented in SJCC 18.50.260(A).  
The requirements of SJCC 18.50.260(A), the policies of the Master Program (located  
in Section B, Element 3 of the San Juan County Comprehensive Plan), the policies of  
the Shoreline Management Act (RCW 90.58.020) and the general criteria for  
shoreline conditional use permits (governed by SJCC 18.80.110(J)) are quoted below  
in italics and applied through corresponding conclusions of law.

**SJCC 18.80.110(J)(4):** *Uses which are classified or set forth in the Shoreline Master  
Program as conditional uses may be authorized by the County provided the applicant  
can demonstrate all of the following:*

*a. The proposed use is consistent with the policies of RCW 90.58.020 and the policies  
of the Shoreline Master Program;*

1 4. As discussed more specifically below, the proposed use is consistent with the  
2 policies of RCW 90.58.020 and the policies of the Shoreline Master Program.

3 **SJCC 18.80.110(J)(4)(b):** *The proposed use will not interfere with the normal public  
4 use of public shorelines;*

5 5. As discussed in Finding of Fact No. 5, the proposed float will only serve as a  
6 marginal addition to a large dock complex and will not interfere with public use of  
7 the shorelines. The flume study research building will not extend waterward of the  
8 shoreline. The criterion is satisfied.

9 **SJCC 18.80.110(J)(4)(c):** *The proposed use of the site and design of the project is  
10 compatible with other permitted uses within the area;*

11 6. As discussed in Finding of Fact No. 5, the flume study research building will be  
12 compatible with the other lab buildings in the immediate vicinity and will be well  
13 separated and shielded from view from adjoining uses. As previously discussed, the  
14 float is relatively small, integrated into a much larger dock complex and will only  
15 extend fifteen inches above the waterline. The criterion is satisfied.

16 **SJCC 18.80.110(J)(4)(d):** *The proposed use will cause no unreasonably adverse  
17 effects to the shoreline environment in which it is to be located;*

18 7. As discussed in Finding of Fact No. 5, there are no significant environmental  
19 impacts associated with the proposal. The criterion is satisfied.

20 **SJCC 18.80.110(J)(4)(e):** *The cumulative impacts of additional requests for like  
21 actions in the area, or for other locations where similar circumstances exist, shall not  
22 produce substantial adverse effects to the shoreline environment, e.g., the total of the  
23 conditional uses shall remain consistent with the policies of RCW 90.58.020 and the  
24 Shoreline Master Program; and*

25 8. The proposal is modest and unique. No cumulative adverse impacts can be  
reasonably anticipated.

**SJCC 18.80.110(J)(4)(f):** *The public interest will suffer no substantial detrimental  
effect.*

9. There are no significant adverse impacts associated with the proposal and the  
proposal furthers important academic research. The public interest will suffer no  
detrimental effect.

**SJCC 18.50.260(A)(2):** *Proposed institutional developments shall be consistent with  
any applicable comprehensive waterfront or subarea plans;*

1 10. According to the staff report, there are no subarea plans that apply to the  
2 property.

3 **SJCC 18.50.260(A)(3):** *Only water-dependent or water-related institutional*  
4 *development shall be permitted within shoreline jurisdiction. They shall be consistent*  
5 *or compatible with existing use of neighboring shoreline areas;*

6 11. The float and flume study research building are both water-dependent. SJCC  
7 18.20.230 expressly identifies marine research installations as water dependent uses.  
8 As discussed in Finding of Fact No. 5 and the Conclusions of Law above, the  
9 proposal is consistent and compatible with existing uses of neighboring shoreline  
10 areas.

11 **San Juan County Comprehensive Plan (“SJCCP”) Policy 3.5.G(3):** *Preference*  
12 *should be given to locating new institutional development on those parts of the*  
13 *shoreline where institutional development already exists.*

14 12. The proposal is to add facilities to a complex of labs that has been in place for  
15 fifty years. The proposal is consistent with the policy.

16 **SJCCP Policy 3.5.G(4):** *The height and bulk of any proposed institutional structures*  
17 *should be designed, to the extent practical, to accommodate the proposed use and to*  
18 *minimize the obstruction of views from the surrounding area, and consideration*  
19 *should be given to compatibility with the scale and use of surrounding developments.*

20 13. As discussed in Finding of Fact No. 5 and several conclusions of law, the  
21 proposal is compatible with surrounding uses. The proposal is consistent with the  
22 policy above.

23 **SJCCP Policy 3.5.G(5):** *Prohibit the location of institutional development on*  
24 *sensitive and ecologically valuable shorelines such as natural accretion shoreforms,*  
25 *wetlands, and wildlife habitat areas, and on shores inherently hazardous for such*  
*development such as flood and geologically hazardous areas, and steep or unstable*  
*slopes in accordance with the Environmentally Sensitive Areas Overlay District.*

14. As noted in the staff report, the project does not encroach upon any  
environmentally sensitive areas except for an aquifer recharge area, which  
encompasses the entire county. As further discussed in Finding of Fact No. 5, there is  
no eelgrass at the proposed float site. There is nothing in the record to suggest that  
the proposal would affect any sensitive or ecologically valuable shoreline.

**SJCCP Policy 3.5.G(6):** *Design institutional facilities to minimize adverse impacts*  
*on other shoreline uses and on shoreline resources.*

15. As previously discussed, the project is compatible with adjoining uses and it will  
not create any significant adverse impacts to shoreline uses or resources.

1 **SJCCP Policy 3.5.G(7):** *Parking facilities should be placed inland, away from the*  
2 *water's edge and recreational beaches, and where necessary should be screened to*  
3 *minimize their visual impact on shorelines, and should include measures to control*  
*surface runoff and prevent pollution of nearby water bodies.*

4 16. No parking is presented as part of the proposal and no parking within shoreline  
5 jurisdiction is authorized by this decision.

6 **RCW 90.58.020 Use Preferences**

7 *This policy (Shoreline Management Act policy) is designed to insure the development*  
8 *of these shorelines (of the state) in a manner which, while allowing for limited*  
9 *reduction of rights of the public in the navigable waters, will promote and enhance*  
10 *the public interest. This policy contemplates protecting against adverse effects to the*  
11 *public health, the land and its vegetation and wildlife, and the waters of the state and*  
12 *their aquatic life, while protecting generally public rights of navigation and corollary*  
13 *rights incidental thereto.*

14 17. The proposal has no significant adverse impacts while facilitating important  
15 research on environmental impacts to shoreline resources. The proposal is consistent  
16 with the general purpose of the Shoreline Management Act.

17 **RCW 90.58.020(1)**

18 *Recognize and protect the statewide interest over local interest;*

19 18. The proposal facilitates research on environmental impacts to aquatic resources  
20 and creates no discernable adverse impacts of its own. The proposal is consistent  
21 with the policy.

22 **RCW 90.58.020(2)**

23 *Preserve the natural character of the shoreline;*

24 19. As previously noted the proposed float will only be a minor addition to an  
25 existing large dock. The proposed building will be placed upon an existing parking  
area and will be one of several already located at the site. The proposal will not  
create any significant change to the natural character of the shoreline.

**RCW 90.58.020(3)**

Result in long term over short term benefit;

1 20. As previously noted, the project will facilitate research on environmental  
2 impacts to aquatic resources while not creating any significant adverse impacts. The  
3 proposal will provide long term benefit over short term benefit.

4 **RCW 90.58.020(4)**

5 *Protect the resources and ecology of the shoreline;*

6 21. The proposal will facilitate research that can be used to protect the resources and  
7 ecology of the shoreline and it is designed (e.g. float grating) to protect the resources  
8 and ecology of the shoreline.

9 **DECISION**

10 The application is consistent with all applicable policies and criteria and is approved  
11 as conditioned below:

- 12 1. Immediately after construction is completed, the owner shall request that San Juan  
13 County Community Development and Planning perform an inspection of the  
14 mesocosm float and the flume study building.

15 Dated this 17th day of January, 2011.

16   
17 Phil Olbrechts  
18 County of San Juan Hearing Examiner

19 **Effective Date, Appeal Right, and Valuation Notices**

20 Hearing examiner decisions become effective when mailed or such later date in  
21 accordance with the laws and ordinance requirements governing the matter under  
22 consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be  
23 subject to review and approval by the Washington Department of Ecology pursuant to  
24 RCW 90.58.140, WAC 173-27-130, and SJCC 18.80.110.

25 This land use decision is final and in accordance with Section 3.70 of the San Juan  
County Charter. Such decisions are not subject to administrative appeal to the San  
Juan County Council. See also, SJCC 2.22.100.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Depending on the subject matter, this decision may be appealable to the San Juan County Superior Court or to the Washington State Shorelines Hearings Board. State law provides short deadlines and strict procedures for appeals, and failure to timely comply with filing and service requirement may result in dismissal of the appeal. See RCW 36.70C and RCW 90.58. Persons seeking to file an appeal are encouraged to promptly review appeal deadlines and procedural requirements and consult with a private attorney.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.