

March 13, 2020

**Re:** Wysong-Ziemba Dock Application at 6789 NE Bergman Road, Bainbridge Island (Project Number PLN50280C SSDP & SVAR).

Dear Planning Staff of the City of Bainbridge Island,

Please consider this as my response concerning the application by Wysong and Ziemba for a 240-foot dock with two boat lifts in Little Manzanita Bay. I strongly urge City Staff to recommend to the Hearing Examiner that the application for the variance be denied.

Little Manzanita Bay is a unique treasure on Bainbridge Island because it is one of the few remaining bays on Bainbridge island that has the unspoiled quiet character that so many of us yearn for. Whatever the time of day or season, there is ample wildlife, particularly birds, to observe.

My home is at 6670 NE Bayview Boulevard, Bainbridge Island and I own a second cottage at 6670½ NE Bayview Blvd, Bainbridge Island. One of my homes is waterfront on Little Manzanita Bay; the second home is right up the hill, so both homes directly face Little Manzanita Bay from the south side, and in particular, look directly at the proposed 240-foot dock with two boat lifts.

See the photo below for the lovely view of quiet Little Manzanita Bay that we treasure. You will see the applicants' existing dock with one of their power boats, on the right-hand side.



My homes are next door to the public road end and conservation easement referenced by Fred and Wilene Grimm in their public comments. The conservation easement includes a lovely small park which our neighborhood uses frequently. The neighborhood park has a picnic table and benches and steps down to the beach for launching human-powered recreation, from kayaks to stand-up paddleboards. Many folks store their kayaks and canoes in a corner of the park. The neighborhood participates in regular removal of

non-native plants in the park. The park is an ideal place for bird and wildlife watching. The park directly faces Little Manzanita Bay from the south side and looks directly at the proposed 240-foot dock with two boat lifts, just as my homes do.

Applicants seek a variance to the Shoreline Management Plan. A variance is defined in the Shoreline Management Plan as a means to grant relief from the specific standards specified in the Plan. Variance permits must be specifically approved, approved with conditions, or denied. Thus, applicants do not have a property right to construct a 240-foot dock with two boat lifts in Little Manzanita Bay. In fact, to do so would violate the Shoreline Management Plan. It is only if they successfully make their case for a variance that they would gain this right. It is very important to keep this in mind when considering their application for a variance, because their application fails to meet the key criteria for a variance.

**The application should be denied for six primary reasons, discussed in greater detail below:**

1. Applicants' assertions make the fundamental mistake of conflating Little Manzanita Bay with the larger big Manzanita Bay, treating them as a single water body. These bays are drastically different water bodies and cannot be combined for the purposes of the application
2. Applicants do not face a unique hardship because all Little Manzanita Bay property owners have shallow water in front of their homes.
3. Applicants in fact seek to obtain a grant of special privilege, because Little Manzanita Bay currently has no private docks providing access to navigable water during all tide levels.
4. Applicants' SEPA Checklist contains critical incomplete or misleading information because it fails to address the documented high ecological value that is unique to Little Manzanita Bay as a spawning site for numerous fish species.
5. The public interest will suffer substantial and permanent detrimental impacts if the 240-foot dock and boat lifts is allowed to be built. It will destroy one of the few remaining bays on Bainbridge Island that has no large docks; end the quiet enjoyment of Little Manzanita Bay by other waterfront owners, upland owners and the public; seriously degrade the views of all residents of the south side of Little Manzanita Bay and all public users; seriously degrade recreational use of the bay for kayaking, canoeing, paddleboarding, swimming, and all other human-powered activities; and negatively impact the varied bird life.
6. Approval of this variance would lead to dramatic negative cumulative impacts.

**Each of the reasons to deny the application is discussed below in detail.**

**1. Little Manzanita Bay is not the same as the larger Manzanita Bay.**

For those who live on or recreate on Little Manzanita Bay, the differences are striking. There are currently no large docks in Little Manzanita Bay; the larger Manzanita Bay already has over thirty large docks accommodating boats of significant sizes.

On Little Manzanita Bay, paddlers and kayakers enjoy the pleasure of being close to the shore at all times, on their way around the bay.

See the photo below for kayakers enjoying Little Manzanita Bay; applicants' existing dock is on the upper left.



Because Little Manzanita Bay is so shallow and so free of docks, there is little concern about large power boats or even many boats at all in the bay. See the Little Manzanita Bay at low tide in the photo on the next page.





## **2. Applicants do not face a unique hardship.**

Tidal influences are a reality for all waterfront owners on Little Manzanita Bay. We all knew that when we bought our homes. Applicants' statement that "the water in front of the subject properties is some of the shallowest in Manzanita Bay" is untrue. In fact, the water in front of all of our waterfront homes in Little Manzanita Bay is "some of the shallowest" (see photo above). Thus, the so-called hardship is hardly unique to applicants.

## **3. Applicants seek to obtain a grant of special privilege because Little Manzanita Bay has no private docks providing access to navigable water during all tide levels.**

Applicants assert that the 240-foot dock would not be a grant of a special privilege because "Most of the waterfront houses on Manzanita Bay have private docks that allow them access to navigable water at all but the lowest tide levels." That is wrong. Applicants mistakenly equate conditions in big Manzanita Bay with those of Little Manzanita Bay, where these assertions are flatly untrue.

Contrary to applicants' assertion and as the attached photos demonstrate, Little Manzanita Bay has no large private docks. Indeed, it has no docks at all that provide access to navigable water during virtually all tide levels. Applicants' proposed dock would be the first in Little Manzanita Bay to provide access to navigable water during most tide levels. If this application is approved, it would grant a special privilege *only* to applicants: none of the waterfront homes on Little Manzanita Bay have private docks that allow them access to navigable water at all but the lowest tide levels.

## **4. Applicants' SEPA Checklist contains critical incomplete or misleading information.**

In the required SEPA checklist, one important basis upon which both the City and state agencies decide whether to approve the variance, applicants were required to respond to questions concerning the presence of threatened and endangered fish and wildlife, as well as migratory birds. Applicants' answers appear below, shown in italics:

List any threatened and endangered species known to be on or near the site:

*"Federally listed threatened or endangered species that may be near the site include chinook, bald eagles, and marbled murrelets. Several species of juvenile salmon may use the nearshore waters of the project area. A fish bearing stream is in the vicinity of the project."*

Is the site part of a migration route? If so, explain.

*"Juvenile salmonids migrate along the marine nearshore areas. Although the site could be used by migratory waterfowl, no particular habitat characteristics make the site any more attractive to waterfowl than other Puget Sound nearshore locations."*

Their responses are misleading, under-represent the biological resources of the area and fail to incorporate existing information.

The *Bainbridge Island Nearshore Habitat Characterization & Assessment, Management Strategy Prioritization and Monitoring Recommendations* (Battelle 2004), which applicants attached to their submission, is far more definitive than their answers above suggest. The report describes MA-9, the geographical location of the proposed dock, as follows:

*"The EF [ecological function] scores are particularly high in MA-9 relative to other MAs on Bainbridge Island...likely due to the prevalence of documented spawning by all three forage-*



**fish species (herring, sandlance, and surf smelt) ... Cutthroat trout, chum, and Coho salmon are also documented to spawn in the Manzanita Creek.”** Battelle Report, p. 95 (emphasis added).

The Battelle Report recommends that in MA-9:

“(1) efforts should be made to maximize adult passage and juvenile rearing functions, both in-stream and in nearby shoreline habitats; and

“(2) **reduction in the number of docks.**” Battelle Report, p. 95 (emphasis added).

**5. The public interest will suffer substantial and permanent detrimental impacts if the 240-foot dock is allowed to be built**

Perhaps the most significant harm that would result from approving a 240-foot dock, with two boat lifts and plans for 50-foot boats (according to the submitted agreement between the applicants) is to the public interest. As so many commented in 2016 when applicants last applied, all Bainbridge Islanders and visitors will suffer irreparable harm if this project is approved. These detrimental impacts include:

**a. Loss of one of the last remaining bays on Bainbridge Island that has no huge docks**

The Bainbridge Island Land Trust recently announced establishment of the Miller-Kirkman reserve in Little Manzanita Bay creek, which the Land Trust website describes as including:

“[An] estuary, ¼ mile of fish stream, 910 linear feet of natural shoreline, and intact riparian vegetation. It’s also home to a range of important species including salmon, kingfishers, eagles, heron and salamanders... Little Manzanita Cove (which includes Miller-Kirkman) is one of two unaltered salt marsh/lagoon reaches on Bainbridge Island as identified in the Bainbridge Island Nearshore Assessment (2004) and is a focus area for protection and restoration efforts. Both Manzanita Creek and Mosquito Creek contain documented cutthroat trout and Coho salmon spawning reaches, as verified in a 2014 Wild Fish Conservancy’s (WFC) stream type assessment.”

The Land Trust further describes a visit to the Preserve as “journeying into an untouched, wilder Bainbridge. The estuary is pristine, and the creek hosts at least two species of salmonids—Coho and cutthroat trout—that frequent this undisturbed shoreline and stream throughout their life stages.” The Land Trust describes their reason for seeking funding for this Preserve as part of its “ongoing campaign to save some of the last best places on Bainbridge before it’s too late.”

I have included the full description of the Miller-Kirkman Preserve at the end of my comment; it is also available at <https://www.bi-landtrust.org/protected-space/miller-kirkman-preserve/>.

A short video, which provides a real sense of the beauty of the creek that empties into Little Manzanita Bay, can be viewed at [https://youtu.be/1jL3d-nE\\_JM](https://youtu.be/1jL3d-nE_JM)

**b. Loss of the quiet enjoyment of Little Manzanita Bay**

The quiet enjoyment that residents and visitors to Little Manzanita Bay experience will be changed forever if this dock is approved. Not only will construction be noisy and prolonged, but thereafter, Little Manzanita Bay will never be the same. It will have large power boats coming and going. Dock lights will alter forever the natural atmosphere of Little Manzanita Bay.

**c. Serious degradation to the views of Little Manzanita Bay enjoyed by residents and visitors**

Applicants assert that “The views will change, but not in a way that is incompatible with or impairs what is already there” and “Most houses in the area face the Olympic Mountains, and the proposed dock does not interfere with any of these views.”

These statements are wrong and once again demonstrate that applicants conflate Little Manzanita Bay with the larger, geographically distinct watershed of big Manzanita Bay. Those of us who reside on the south side of Little Manzanita Bay face the beautiful bay itself, not the Olympic Mountains. That is also true of the public users of the road end, including paddleboarders, kayakers, canoes, even the hardy group of swimmers who regularly swim from one end to the other of the mouth of Little Manzanita Bay. That means all south-side residents and public users face the prospect of this huge dock in a previously pristine viewshed. The proposed dock would dramatically change our views. With a huge dock nearly bisecting Little Manzanita Bay, its required lights blazing at all hours and the noise of the vessels that the applicants plan to park there, applicants would transform Little Manzanita Bay into their own private marina.

**d. Serious degradation to the ability of all waterfront owners and the public to make recreational use of Little Manzanita Bay from the south side of the bay**

Applicants state that their dock will result in improved “nearshore navigability for kayaks, paddleboards, canoes and other small watercraft over what exists now”. To suggest that folks in canoes, kayaks and stand up paddleboards will enjoy improved navigability based on the notion that we can go *under* a 240-foot dock and *around* the 50-foot boats parked there, is absurd. Today, the entirety of Little Manzanita Bay and its shoreline can be viewed up close by paddleboarders, canoeists and kayakers without impediments other than applicants’ current 84’ dock and the wooden dock at the far side of the bay.

**e. Negative impacts on resident and migratory birds in Little Manzanita Bay**

Applicants noted the presence of bald eagles in Little Manzanita Bay. But there are many more species that are both resident and visit. Little Manzanita Bay is home to Great Blue Herons, osprey, kingfishers, Canadian geese and many others. The bird and duck behavior that many of us have observed includes fishing (very successfully!) in Little Manzanita Bay, mating and raising young. As a former employee of the Audubon Society and a birder, I have observed a great variety of birds in the space of just one summer weekend and intend to submit my bird list at hearing. Below is a photo of bald eagles on the beach at Little Manzanita Bay, in front of our house.



**6. Approval of this variance will lead to dramatic and negative cumulative impacts.**

Finally, cumulative impact is a critical factor in determining whether to approve the 240-foot dock and boat lifts, the first of its kind in Little Manzanita Bay. The well-known essay, *The Tragedy of the Commons*, describes exactly the situation the City of Bainbridge faces with this application. In any commonly owned resource, as long as no-one takes advantage to obtain more than his or her fair share, the resource is safe. But as soon as one individual seeks more than his or her fair share, the resource is on its way to being lost.

Many of us who are waterfront owners on Little Manzanita Bay would enjoy having a personal dock. Many of us would settle for having a personal deep-water mooring, which applicants already have.

None of us has tried however to do what applicants here are trying to do—to impose upon a fragile and special ecosystem their own personal desires, at the cost of everyone else's quiet enjoyment of the bay. If this dock is allowed, I predict that the City of Bainbridge will face many shoreline variance dock applications by others who feel that there is no longer any point in sacrificing personal desires for the good of the community. The resulting proliferation of docks in Little Manzanita Bay will further destroy this fragile ecosystem.

I strongly urge City Staff to recommend to the Hearing Examiner that the application for the proposed variance be denied.

Sincerely,  
Cheryl Coon  
6670 NE Bayview Blvd and 6670½ NE Bayview Blvd,  
Bainbridge Island, Washington



From <https://www.bi-landtrust.org/protected-space/miller-kirkman-preserve/>:

## *Miller-Kirkman Preserve*

*Stand for the Land. And the water.*

The Miller-Kirkman Preserve – the third addition to the collection of lands the Land Trust is acquiring through the *Stand for the Land* campaign. This 13.27-acre preserve includes a 1-acre estuary, ¼ mile of fish stream, 910 linear feet of natural shoreline, and intact riparian vegetation. It's also home to a range of important species including salmon, kingfishers, eagles, heron and salamanders. The Miller-Kirkman Preserve represents a “one-of-a-kind” opportunity in our ongoing campaign to save some of the last best places on Bainbridge before it's too late. This preserve is not currently open to the public.

### **Why we're so excited about Miller-Kirkman.**

More than 60% of Bainbridge Island shoreline is developed, which makes protection and improvement of undeveloped areas such as Miller-Kirkman a high priority, both locally and within the context of broader Puget Sound recovery goals.

Visiting the Miller-Kirkman Preserve is like journeying into an untouched, wilder Bainbridge. The estuary is pristine and the creek hosts at least two species of salmonids—coho and cutthroat trout—that frequent this undisturbed shoreline and stream throughout their life stages. A variety of other aquatic and terrestrial species live here, as well.

The Miller-Kirkman Preserve is named for the family who owned the property from 1942 until the Land Trust's purchase was finalized in 2018. Vicki Kirkman whose grandparents purchased the original 62-acre parcel and her husband Jim McLain wanted to have this special place preserved forever. Not only does the Land Trust's

ownership of this preserve achieve Vicki and Jim's goals, it also helps the Land Trust realize its land protection goals as outlined in the 2018 [Strategic Conservation Plan](#).

Little Manzanita Cove (which includes Miller-Kirkman) is one of two unaltered salt marsh/lagoon reaches on Bainbridge Island as identified in the Bainbridge Island Nearshore Assessment (2004) and is a focus area for protection and restoration efforts. Both Manzanita Creek and Mosquito Creek contain documented cutthroat trout and coho salmon spawning reaches, as verified in a 2014 Wild Fish Conservancy's (WFC) stream type assessment.

By protecting Miller-Kirkman, the Bainbridge Island Land Trust aims to safeguard an Island treasure and help improve the vibrancy of Little Manzanita Bay and surrounding Puget Sound.

## **ACRES PROTECTED**

**13.27 acres**

## **CONSERVATION FEATURES**

- **Undeveloped shoreline**
- **Saltwater estuary**
- **Fish stream**
- **Intact riparian vegetation**
- **Valuable habitat for aquatic and terrestrial species**