

March 20, 2006

## **Bertschi Update: Results/Decision From Appeal to King County Superior Court**

This is a brief update to let you know the results of our appeal that was presented to King County Superior Court this Monday. Judge Linda Lau was presiding. In short, we did not prevail in our challenge of the Hearing Examiner's decision. But read on.

### **Superior Court Results**

- The appeal to Superior Court was "heard" Monday (**March 20, 2006**). The principal challenges pertained solely to issues of "law" as they related to the previous Hearing Examiner proceeding. By design this was not an opportunity to rehash all of the arguments about the impacts or problems with the school. Judge Linda Lau opened with a qualifying comment that this was understandably a very contentious subject and as such she suspected that the debate would not be decided at this hearing.
- After dispensing with a purely **procedural** issue relative to the school's motion to dismiss, the **substantive** appeals followed with presentations from our counsel, the Law Department representing the City and the School's counsel. Then a few questions from the judge and then she made a very quick and unexplained "oral ruling." She prefaced the ruling with an unusual acknowledgement to the effect that while judges are expected to be experts on every aspect of the law she did not possess expertise in land use law. And she again emphasized that she hoped this hearing would bring closure to this matter but offered that it was doubtful that it would. She made a simple oral ruling, without explanation or comment: decision of the **Hearing Examiner stands as published. There will be no written decision.**
- We remain convinced that Judge Lau does not adequately understand the underlying statutory framework for land use decisions, administrative appeals, and jurisdiction to approve projects, construction and permits. As such we will be a filing a Request for Reconsideration with Judge Lau.

### **Post-Hearing Plans**

- As noted above a Request for Reconsideration will be filed very soon. And we have **not exhausted our appeal opportunities**. An appeal to the Court of Appeals has been strongly recommended.
- In addition don't forget the **large package of Code Compliance Complaints** that have been "resting" down at DPD. It may take a little outside prodding to get the City to respond but there is a plan in place to address this requirement.
- And finally with regard to the previously presented 1981 Agreement, the neighbors who were party to this Agreement have dispatched a strong letter **March 1, 2006** to the School's Board of Trustees and Owner detailing violations and requesting compliance. See <http://www.fnbd.org/> for copy of letter and chart of violations.

Thanks to all in the neighborhood for your untiring dedication and support in our efforts to preserve the qualities of this great neighborhood. We live in a wonderful community and are striving to maintain and protect its special values. Take a moment to look over the historical review on the reverse. The record and our accomplishments over the last two years speaks to our strength, commitment and resolve to bring balance and order to this special place we call "home." Your comments are most welcome.

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