

One Citizen's Journey through the City Bureaucracy Maze

Not in My Backyard ... Please

By Vicki Karlan



When you wake up one morning to learn that a 50' high [SB-1818 project](#) is about to be constructed in your largely one-story neighborhood, in complete disregard of its existing character and scale, what do you do? What can you do?

Those are the questions that started our neighborhood group's journey through City bureaucracy, City politics, and our legal system. During this process, we learned how the City Attorney makes decisions, how some political leaders achieve what's right for their constituents while others fail despite their efforts, and how public apathy is used by the special interests to force their agenda and prevail in accomplishing goals that may conflict with public health, safety and welfare. *(Editor's Note: This is the first of a two-part series describing Vicki Karlan and her neighbor's trek through the halls, agencies and courts of LA. It is written and offered by Karlan with the hope that her experience, and what she learned from it, will be helpful to other Angelinos.)*

Here is our story. It starts with the saying: If at first you don't succeed, then dust yourself off and try again. That's been our approach for the past nine months we've spent speaking out about a high density multi-family housing project that inharmoniously abuts a single family neighborhood in the Del Rey neighborhood of Mar Vista. The project was initially pursued as density bonus project that would construct an imposing 50' high apartment complex comprised of 25 single units, including 2 affordable ones, which is its sole redeeming quality but insufficient to outweigh the harm to the character of the neighborhood.

For us it started last October when a neighbor with property bordering the project parcel filed an appeal of the City's Mitigated Negative Declaration (MND) because it did not adequately address existing environmental issues concerning traffic and circulation problems, insufficient street parking, and conflicts with the character and scale of the neighboring single family residences. At the center of this issue is that we have a triangle of R3 (multi-family) lots abutting an R1 (single-family) neighborhood, a zoning problem that should have been addressed in the 1980's through the City's zoning consistency program.

What began with a handful of immediate neighbors swelled to a neighborhood group upward of 70. Apathy is harder to sustain when you're part of a group. We prepared for the January public hearing with the City Planning Commission (CPC) by carefully reviewing our area's specific Community Plan and the City General Plan to ground our appeal in fact. The compelling neighborhood testimony that ensued prompted a standing ovation from Jane Usher's City Planning Commission, which placed mitigating conditions on the project to help address its attendant safety and aesthetics issues. This hearing also raised the issue of pursuing a zone change given the facts of the unreasonable zoning, which, according to protocol, should have been fixed in 1986 following the landmark Hillside Federation case when the City was Court-ordered to make zoning consistent with land use.

We then set about reviewing zoning maps from 1948-2007, obtaining all of the building permits ever issued for the parcels in question, and combing through dusty City archives and Council Files. If only we had known to do this back in October...

On a separate but aligned front, another neighbor requested that our Councilmember pursue an Interim Control Ordinance (ICO). The ICO would have placed a temporary moratorium on the issuance of building permits for the property until City Planning could ascertain if the project as proposed was in keeping with the scale and character of the neighborhood and the parcel conformed to the letter and spirit of state zoning laws. Our Council office told us an ICO was impossible since the developer was, in the City Attorney's view, vested at that time. Granted this request was made 6 weeks before a building permit was issued, so it's unclear if an ICO was truly impossible. When the City responds "it's impossible," we now know to exhaust all options before ever accepting this as truth.

On our behalf, our Councilmember initiated a Council Motion (CF# 08-0391) directing City Planning to report back with zoning recommendations for this particular triangle that would preserve the current character of the neighborhood and encourage development consistent with the surrounding community.

As for the developer, refusing to address the CPC's conditions, he withdrew the SB-1818 project, reduced the height to 45' ---the maximum allowable in an R3 zone---and pursued a permit directly from the Department of Building and Safety (DBS) for a "by right" or ministerial density bonus project. And a few weeks later the developer filed suit alleging that the City had violated his civil and statutory rights in placing conditions on the original project. Meanwhile, Building and Safety granted a building permit for the project with the 45' height and excavation immediately began.

We then appealed the inadequacy of the City's MND to the Council Committee on Planning and Land Use Management (PLUM); when our appeal was denied, we then testified when City Council was voting on PLUM's recommendation but yet again our appeal was denied on the basis that the current iteration of the project was considered "by right" (never mind that a lawsuit was underway to return to the original 50' height only possible through a discretionary determination). Again undeterred, we then appealed the City's issuance of a building permit but have not yet received a response.

Finally, we also asked the Court for permission to intervene in the developer's lawsuit against the City, but the Judge denied this request after both the City and developer opposed it, implying they don't want the neighborhood's perspective brought to the table in what could turn out to be a collusive lawsuit. Incidentally, the only point upon which we may be in agreement with the developer is that the City acted out of accordance with the California Environmental Quality Act); but unlike the developer, we contend the City did not have sufficient information about the potential environmental impacts before them when they approved the project in the first place. Stay tuned as the outcome of this case will set precedent for SB-1818 developments going forward. By the way, the California State Attorney has confirmed that CEQA unequivocally applies to SB-1818 projects, as Jane Usher eloquently described previously in [CityWatch](#).

Sure, with each denial and what seemed to be a slew of them, we repeatedly threw up our hands, tempted to retreat into acquiescence. But with each successive step we also realized we can't stop: we owe it to the future to persist in seeking the neighborhood we wish to have.

In many cases the character and scale of communities are changing for the worse sometimes because our elected leaders fail to make timely policy decisions; but as constituents who vote, it's up to us to remain ever vigilant in ensuring that the positive character and scale of our neighborhoods are respected. For every example of what didn't happen that should have, you can find encouraging examples of City Council actions if you just know where to look. [LaBonge](#) [Wesson](#) [Hahn](#)

So where are we now? City Planning has recently completed its zoning study indicating the current zoning does not provide a transitional buffer between R3 and R1, which is accepted zoning practice. A [public hearing](#) on Planning's recommendations will take place in September.

Do we have the power to make a difference? Is it worth the effort? You'll have to decide for yourself but we exclaim "YES!," particularly if we organize and act relentlessly. Over the past year and a half Council members in three different Districts have been successful in getting property appropriately rezoned, a process that has ranged from three to 14 months in these cases. Hopefully our Councilmember --- with pluck and diligence --- will be able to achieve a similar result. We'll be carefully watching!

What's next? Part II of this two-part series will discuss how we can take action to proactively review neighborhood parcels that may pose similar problems but can be effectively mitigated by early and tenacious attention. (*Vicki Karlan is a homeowner on Los Angeles' Westside. She can be reached at: vykarlan@hotmail.com*)

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