

THE DAILY ASTORIAN

Founded in 1873



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Mixed-use library concept makes sense

Inertia is the enemy of change

Mixed use has been a hot topic in urban planning for decades. Mixing public and private uses — retail, office space and housing — makes sense. A mixed-use development builds more life into downtowns. And for developers, mixed use enlarges the number of investors who can be brought to the table.

When Astorians were asked a decade ago what to do with the downtown block vacated by Safeway, a mixed-use development became the consensus choice. These visioning sessions filled the Kern Room of the Columbia River Maritime Museum.

As Derrick DePledge reported last Wednesday, the drive to preserve the Waldorf Hotel drove Astoria Mayor Arline LaMear to disconnect library planning from the preservation discussion. That is a wise choice.

The east end of the Safeway block is prime territory for a new library as part of a mixed-use development. The solution could include the public library on the ground floor, offices

above that and housing above that. Sometimes retail is also included on the ground floor, which provides an additional revenue stream.

Councilor Zetty Nemlowill makes the point that Astoria needs more workforce housing. Heritage Square would be a logical location — in the heart of town and feeding it with vitality.

Inertia is the enemy of concepts like this. It is always easier to put up with a dysfunctional building or situation than it is to summon the public will to move to a new concept, a new solution.

Our new mayor and new councilors have what it takes to bring something new to the table. That is what Astoria needs.

Preservation can be costly for a community

Weighing the aspirations and reality of historic preservation

Oysterville, Wash., is one of seven examples singled out this year in Knute Berger's useful annual survey of Pacific Northwest historical assets at risk of loss or degradation. Berger also weighs in on another subject of regional interest — widespread replacement of old buildings with new ones.

Berger's Mossback column in the online news source Crosscut is essential reading for Northwesterners interested in celebrating this region as a uniquely powerful intersection of history, characters and scenery. His role is evangelist for preservation. But writing from Seattle, he is not always completely attuned to the nuances of local struggles to combine historical stewardship with the practical necessities of running functional communities.

Oysterville excites special attention. It is old by Northwest standards, having been established in 1854. It was rich for a time based on shipping oysters to Gold Rush-era San Francisco. Then — like the now-heavily touristed villages in England's former wool-centric Cotswolds — Oysterville was ignored for generations after native oyster reefs were mined out. This resulted in a nice collection of houses and other structures being left to preserve. Modern attention returned to the village in the 1970s, when it was designated a National Historic District.

But as in most places, its buildings weren't constructed in the first place with the idea they would last more than a century. Climate, wood beetles, termites and other factors all wage an unrelenting war on old wooden buildings on the shore of Willapa Bay. Legal challenges to decisions made by the village's Design Review Board began almost immediately, with an Anchorage woman unsuccessfully suing to place a mobile home within

district boundaries.

A number of other disputes have blown up over the intervening years. Considering the never-ending issue of trying to enforce rules in a rural county with a severe lack of funds, most locals would be inclined to think Oysterville has done rather well.

The 18 actual active residents of the village — many of whom are only there part time — struggle to get along in a place with a vast external fan club. It's safe to say that all feel bruised, sensitive and frustrated by the delicate balancing act between stewardship and respecting private property rights.

Berger also speaks in his current column about the desirability of reusing rather than demolishing older residential buildings — especially in Oregon — citing Restoreoregon.org for its admirable efforts.

In this case, too, local circumstances merit careful consideration. The overall wisdom of renovating or repurposing antiquated structures doesn't mean it makes sense in every specific instance. A building can be conceptually interesting and yet still have a negative cost/benefit ratio within the context of the needs of a particular community or neighborhood.

As a footnote, Berger makes the valuable point that "a broad heritage advocacy group that operated across silos — a kind of Sierra Club for Heritage — is needed in the Northwest. It would take on advocacy for historic preservation, archaeology and cultural resources protection, and museum, library, archive and education in history, geography and social studies."

Berger says such a group would need deep pockets for litigation. More important, in our view, would be deep pockets to actually aid communities in living up to the lofty aspirations of preservationists.

GUEST COLUMN

State doesn't need grand jury reform bill

By JOSHUA MARQUIS
For The Daily Astorian

There is a growing effort in Salem, led by Rep. Jennifer Williamson, D-Portland, to make a "basic reform" that would "increase transparency" of grand jury proceedings.

SB-365, co-sponsored by Sen. Jeff Kruse, R-Roseburg, proposes to record all questions and answers in grand jury proceedings and make them immediately available to the defense attorneys.

The proposal has gained the approval of *The Oregonian* <http://bit.ly/1AYCIRB> and is on the fast track to approval.

But, like many bills, SB-365 is a solution to a problem that doesn't exist in Oregon. The only documented case of grand jury abuse in Oregon in the last quarter century happened here in Astoria in 1993. That summer, then-District Attorney Julie Leonhardt, angry at the Astoria Police for not giving "special treatment" to her boyfriend on a reckless driving charge, somehow got the grand jury to charge two police officers of felonies which they had never committed and for which there was no evidence. Leonhardt's plan fell apart quickly because Oregon grand jury indictments, then and now, must bear the names of any witnesses who testify.

Leonhardt was barred from office by the governor, indicted, recalled, convicted, jailed and eventually disbarred.

Grand jurors are seven people picked at random by court staff. They serve together for two months, act as a check and balance on the power of the district attorney and take an active role in asking questions and deliberating on the cases

that come before them. I've asked several former grand jurors their opinion of this bill. They think it's a lousy idea.

If the bill passes, every question by every grand juror, every answer by every witness, will be recorded, primarily to give defense attorneys the opportunity to challenge indictments and to confront victims with any inconsistent responses. My educated guess is that a substantial number of vulnerable victims, who are often terrified of the court system, would simply refuse to testify. The bill will have a particularly chilling effect on victims of child abuse, sex abuse and domestic violence.



Josh Marquis

of including a dedicated grand jury room when it renovated the courthouse a few years ago. Installing a recording system would likewise be on the county's dollar.

The Oregonian admitted that, "It's worth noting that secrecy in itself is not a bad thing. The confidential nature of grand jury proceedings means that those who are about to be indicted won't have advance warning and take off, for instance. Those whom the grand jury declines to indict are never publicly identified, either — saving them from being unfairly stigmatized."

No prosecutor, no grand juror, wants to charge an innocent person with a crime. We simply don't have a history of that happening, either in Clatsop County or Oregon. The cost of this bill, both in money and in the trust of victims, is too high. If the leg-

islators truly want to create more "transparency," why not change the evidence code to allow jurors to know a defendant's actual criminal history?

At the heart of any "reform" should be an existing injustice. SB-365 is a solution in search of a problem. It only addresses No. 1 on the wish list of the one group who will benefit from it, criminal defense attorneys.

Hundreds of Clatsop County citizens have served as grand jurors just while I've been Clatsop County's district attorney. They are your friends, family, your neighbors. Ask them about what they think of the idea, and how difficult it is to get people often at the worst moments of their life tell their story truthfully and completely.

Joshua Marquis was just sworn in last month to his seventh term as Clatsop County District Attorney.

The only documented case of grand jury abuse in Oregon in the last quarter century happened here in Astoria.

SB-365 will not bring Oregon into line with more than 30 other states. Most states, including Idaho and California, forego grand juries in favor of preliminary hearings, a public minitrial without a jury. They are time-consuming and expensive, but do "preserve" testimony, should a witness vanish, refuse to testify again or claim later they can't remember. Should SB-365 pass, many prosecutors, including myself, may well decide to conduct preliminary hearings on tougher cases. Although the method is different, the outcome is the same: recorded testimony.

You can't simply drop a \$40 recorder on a table and call it good. Each of the three courtrooms in Clatsop County is outfitted with microphones and a recording system that is operated by the courtroom's judicial assistant. Each recording is marked, timed, logged and secured. The county bore all the cost

Abolish the filibuster, go bold

By CHARLES KRAUTHAMMER
Washington Post Writers Group

WASHINGTON — I've been radicalized. By Harry Reid and Barack Obama.

Goodbye moderation and sweet reason.

No more clinging to constitutional and procedural restraint. It's time to go nuclear.

In the fourth quarter of his presidency, Obama unbound is abusing presidential authority as will to secure a legacy on everything from environmental regulation to immigration, the laws of which he would unilaterally suspend.

Republicans find themselves on the sidelines bleating plaintively about violations of the separation of powers. They thought they found an instrument of resistance in funding for the Department of Homeland Security. The House has funded the whole department except for the immigration service, which was denied the money to implement Obama's executive amnesty.

But Democrats have filibustered the bill in the Senate, where it will die. And as the night follows day, Republicans, not the filibustering Democrats, will be blamed for shutting down DHS and jeopardizing the nation's safety at a time of heightened international terrorism.

A nice cul-de-sac. But there is a way out for the GOP. Go bold. Go nuclear. Abolish the filibuster. Pass the bill and send it to the president.

I know that breaks a lot of china. But Congress is already knee-deep in fractured porcelain. On policy, Obama has repeatedly usurped congressional power, most egregiously

with an executive amnesty for illegal immigrants that for four years he himself had insisted was unlawful.

As for procedure, Reid went nuclear in November 2013 when he abolished the filibuster for presidential appointees and judicial nominees (below the Supreme Court). He did it to pack the D.C. Circuit Court of Appeals with liberals. The nation's liberal chorus cheered. "Elections are supposed to have consequences," read one typical commentary. "It was time to push the button." Boom.

My beef with Reid was not what he did but how he did it. The filibuster has grown in use and power over

On policy, Obama has repeatedly usurped congressional power.

decades to the point of dysfunction. Everything needed 60 votes. This is relatively new and nowhere to be found in the Constitution.

My problem was the egregious way Reid changed the rule: by a simple majority, 52-48, with zero Republicans onboard (and three Democrats defecting).

As I wrote at the time, "If a bare majority can change the fundamental rules that govern an institution, then there are no rules."

I was not the only one to warn that Democrats would rue the day. Once you go nuclear, so can the other guy.

Reid went first. Time for Majority Leader Mitch McConnell to finish the job. Push the button. Abolish the filibuster.

Then immediately pass the House homeland security bill and send it to the president. He is likely to veto it, but the politics will have been radically changed. The current storyline is: Republican Congress won't fund DHS, threatening to shut it down. New storyline: Obama vetoes fund-



Charles Krauthammer

ing for DHS, threatening to shut it down.

The latter narrative is more accurate: Democrats are stopping the funding. Moreover, a presidential veto would lead to a more fair allocation of blame. And it's blame allocation that determines which side blinks first. The president will have a major incentive to find some face-saving finesse.

But filibuster abolition is more than a one-shot proposition. It would radically change the next two years. It would give Republicans full control of the Congress and allow swift passage of a GOP agenda.

It would also clarify the antagonists: a lawless president vs. a willful Congress. The GOP could be sending bill after bill to the president's desk — on tax reform, trade, Obamacare and, if it has the guts, immigration.

Obama's choice? Sign, veto or negotiate a compromise. If he vetoes, then Republicans take that issue to the country in 2016.

What's the downside? Democrats showed in 2013 their willingness to trash Senate procedure for a mess of pottage — three judges on one court. If Republicans stand pat now, what's to stop Democrats from abolishing the filibuster altogether when it suits them in the future?

And think of the upside. A GOP resort to the nuclear option might make Democrats come to their senses and negotiate a new understanding that any fundamental change in Senate rules — e.g., altering the filibuster — will henceforth require some agreed to supermajority. No more bare-majority party-line coups.

This would be ideal. But that's for later. For now, go for the doable. Abolish the filibuster and challenge the president. And when asked, "How can you do such a thing?" tell them to ask Harry Reid.

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