

**Voluntary vs. Involuntary Historic  
Designation  
Committee Report to the  
Historic Preservation Task Force**

**Aspen  
July 15, 2009**

**Members: Michael Behrendt, Penney Evans Carruth, Marsha Cook, Yasmine dePagter, John Kelly, Lisa Markalunas, Mike Maple, Joe Myers, Suzannah Reid, Jack Wilke, Bill Wiener**

1. Goal:

Prepare a policy recommendation on involuntary versus voluntary designation of historical structures/properties in Aspen. A presentation of the recommendations, including majority and minority opinions will be given to the full Historic Preservation Task Force for review and approval. Minority and Majority opinions will be included in the Task Force recommendations to City Council.

2. Issues as developed suggested during Task Force ideas session June 2008:

Are the needs of the community more important than the individual? Can they be compatible?

Should the City designate a property without owner consent?

At what cost should we have involuntary designation?

Should there be involuntary designation for Post WWII structures?

How can we incentivize owners to voluntarily participate in historic designation?

(A complete copy of Voluntary vs. Involuntary/Listing Practices per Task Force ideas session June 2008 is attached.)

3. History of designation in Aspen as it relates to Post WWII Properties

From HP Task Force Binder, "A History of Aspen's Historic Preservation Program (a work in progress)"; pages 1-4.

1972 Encouraged by a citizen's group called "Save the Victorians", City Council adopts a historic preservation ordinance establishing a process for the designation and review of historic structures, and the creation of the Historic Preservation Committee. Aspen is one of the first communities in the state, and among the earliest in the nation, to adopt historic preservation guidelines.

1999 Committees form to work on update of the AACP. The HPC's philosophy statement, as adopted into the plan, states "Aspen's distinctive history is irreplaceable whether it be the late nineteenth-century miner's cottages, the Bauhaus buildings introduced by architect Herbert Bayer, or the faux-chalets built by ski instructors in the 1950's and 60's." The action plan for the AACP includes the direction to "Protect all buildings and sites of historic significance," and to update the inventory.

2000 Update to the historic inventory is completed. Approximately 50 properties, primarily built after WW II are recommended for adoption.

Ordinances are brought forward, causing controversy. Action is stopped on adding Post-War properties.

Numerous community meetings, tours, lectures and meetings are initiated over the next two years in order to revise problematic aspects of the historic preservation ordinance and bring a common understanding of the importance of recognizing Aspen's post-war history.

Updated historic preservation guidelines are adopted.

2002 Council adopts a new historic preservation ordinance and increases historic preservation benefits.

HPC and Council hold a work session to finalize the integrity scoring system and post-WW2 research papers, integral elements of the newly adopted designation process.

2005 HPC and Council hold work session to discuss an update on the progress of designating post-war resources through owner-cooperation.

"A History of Aspen's Historic Preservation Program" timeline stops @ 2005.

2007 In July 2007, the Aspen City Council adopted an emergency ordinance, Ordinance #30, Series of 2007. Ordinance #30 prohibited any exterior alterations, land use or building permit applications of City of Aspen properties that were constructed 30 or more years ago, unless and until the City determined that the property should not be considered for potential historic designation or that the proposed alterations would not negatively affect the potentially historic resource. Ordinance #30 was enacted "in light of the on-going demolition of buildings, structures or objects that may have historical significance...and the diminishment of Aspen's unique architectural character, livability and attractiveness..."

Following adoption of Ordinance #30, it was revealed that the Ordinance was justified by the "demolition" of 14 (15 if you count 320 & 320 ½ Midland as two properties). A review of these 15 properties revealed that all of these properties had been, or could have been reviewed by HPC or City Council for potential historic preservation or had not in fact been demolished. 7 of the properties (including the two Benedict houses on Gillespie) were reviewed by HPC and/or City Council resulting in a vote to remove such properties from designation consideration, 2 properties were recommended for removal from historic consideration by staff, 2 properties were eligible for protection under then existing ordinances (over 40 years old) and two properties (Christmas Inn & Innsbruck) were not demolished but were renovated under the guidance of HPC and the Main Street Historic District.

Ordinance #30 was in place for 5 months. During this time City Council held numerous meetings to discuss the effect of the new regulations and potential amendments.

After significant community input over the ordinance and the potential preservation of post war properties, in December 2007, Ordinance #48, Series of 2007 was adopted to replace Ordinance #30.

As part of the 2009 Aspen Area Community Plan, the City of Aspen asked several Survey and Community Vision Meeting questions about Historic Preservation generally, and about preservation of Post World War II Properties.

The Community Survey showed that 50% of voters and 49% of homeowners rated Historic Preservation as important. As indicated in the table below, voters and full time homeowners believe the Historic Preservation effort is exceeding their expectations.

<b>Historic Preservation</b>				
	Voter List	Full Time Homeowners	Second Homeowners	All Homeowners
Importance of topic	50%	49%	65%	55%
Assessment of topic	57%	53%	61%	56%

Note: Survey uses a scale of 1-5, 1 being the lowest and 5 being the highest. The figures above add the results of those who chose 4 or 5.

At the Community Vision Meetings in January 2009, 79% agreed/strongly agreed that Historic Preservation “is important to me.”

However, there is reluctance to dedicate new public funds to preservation programs. When asked to split \$100 among nine topic areas, the Community Survey respondents and the Small Group Meeting participants spent the least amount of money on Historic Preservation. Similarly, only 37% of the Community Vision Meeting participants would support a new dedicated public fund for historic preservation.

### Post War Preservation

The question of whether and how to preserve post-World War II properties has been a matter of debate in the community over the last 10 years. The Community Survey showed relatively little support for the need to reach a “consensus” on protecting Post-War buildings.

	Full time Homeowner	Second Homeowner	ALL Homeowners	VOTER LIST
Support of reaching consensus on Post-War Preservation	33%	48%	39%	35%

Survey uses a scale of 1-5, 1 being the lowest and 5 the highest. The figures above add the results of those who chose 4 or 5.

Presented with a different question and more specific choices, participants at the Community Vision Meetings responded as follows. When asked if “it is important to preserve structures from Aspen’s Post-War history, such as European chalets, and modernism,” 19% of participants stated “Yes, it’s important for our history,” and 37% of participants stated “Yes, but only the most superb buildings.” A total of 23% stated “No, I’m not convinced yet,” while and 19% of participants unequivocally stated, “No, we’ve preserved enough.”

#### 4. Considerations regarding Voluntary versus Involuntary Programs:

A. National Survey: In 1998 a survey was conducted by the National Alliance of Preservation Commissions (NAPC) associated with the University of Georgia and its partners over a one-year period. According to the report:

172 programs require owner’s consent  
308 do not require owner’s consent  
182 designate only with owner’s consent (by Policy)

Therefore: 354 require owner’s consent (52%) & 308 do not require owner’s consent (41%); 7% of those doing survey did not respond.

(Some discrepancy in the reported data was noted by the Committee. NAPC was contacted in March 2009 by Marsha Cook seeking clarification on some of the numbers. According to Drane Wilkerson, NAPC Executive Director “Survey data continued to be entered into the data base after the report was generated and the report was never updated.” This causes some inconsistencies when trying to make the data and percentages in the report balance. NAPC will be conducting another survey this summer with more information available by year end.)

B. Continuum of Involuntary/Voluntary Historic Preservation Alternatives: The Committee developed and discussed a continuum of Voluntary and Involuntary

programs for consideration. The Continuum Involuntary/Voluntary Historic Preservation Alternatives is attached.

C. Pros and Cons of Voluntary versus Involuntary Programs:

The Committee regularly discussed the pros and cons of a Voluntary versus Involuntary Program. A summary of issues follows.

**Involuntary vs. Voluntary Designation of Historic Properties  
Pros & Cons**

**Voluntary Designation**

**Pros**

<b>Opinion</b>	<b>Rebuttal</b>
Historic Preservation is respected rather than feared	When one property is being demolished and a similar property is being redeveloped it makes the program look arbitrary. The arbitrary perception is part of what is feared.
A positive willingness to preserve may create better development results	May or may not be true. In some cases, negotiation will be based on threat of demolition, not on willingness to preserve.
Owner's view of property rights is not compromised	Preservation as a community interest should not be singled out as a threat to property rights.
Easier to transfer/sell property	

**Cons**

<b>Opinion</b>	<b>Rebuttal</b>
Some historic properties may be lost because the property owner chooses not to designate	Historic properties will be lost.
Resistance from neighbors regarding variances & incentives	This will be a disincentive for the property owner. It provides opportunity for the community to insert displeasure with other development into negotiation process.
Increased density, mass & scale within neighborhoods created by development incentives	Applies to voluntary & involuntary designation
Since each property tends to be unique (design, existing FAR, lot size & configuration), potential application of Historic incentives is unique	Applies to voluntary & involuntary designation
Cost associated with designation	

**Considerations**

<b>Opinion</b>	<b>Rebuttal</b>
More pressure to educate public in order to successfully invite/encourage participation in the program and support the granting of incentives to property owners.	Applies to voluntary & involuntary designation

**Involuntary Designation**

**Pros**

<b>Opinion</b>	<b>Rebuttal</b>
No risk of losing historic resources	But at what cost?
All potential historic properties are treated equally with respect to Historic Designation	Property owners on potentially historic properties are not treated equally with owners of non-historic properties
Historic significance drives the preservation of buildings, not development	
The courts allow for involuntary designation	The “teeth” for historic preservation are at the local level. Designation is determined by local “political will”.

**Cons**

<b>Opinion</b>	<b>Rebuttal</b>
Controversy is detrimental to the community	There are many things that are controversial
Unhappy property owners; reinforces philosophy that physical buildings are more important than the people that make up the community.	We need to change the attitude in the community and not use it as a reason not to do preservation.
Responsibility of preservation is borne by a few	This is the cost of preservation and the community provides benefits to the property owner that are otherwise unavailable.
Unintended consequences – demolition of property	Demolition risk exists only during the period of time where designations are being considered.
Increased density, mass & scale within neighborhoods (development incentives)	Applies to both voluntary & involuntary.
Resistance from neighbors regard HP variances & incentives	Applies to voluntary & involuntary

Possible impact on major financial assets; Reduces number of prospective buyers, creating a negative on salability and therefore affects value	There is no evidence that properties are devalued based on designation. Incentives can increase value.
New & innovative development may be compromised	
Emotional cost to property owner	There are emotional costs on both sides.
Property rights compromised	The public interest is more important than the private.
Cost associated with challenging designation	This applies to voluntary & involuntary
Renovation and/or new construction requires property owners to purchase specialty materials, use specialty contractors, use more legal and architectural services and wait longer for approvals	
Relocation of families from Aspen because of threat of designation (unintended consequence)	

5. Other Considerations

During the course of the discussions on the implications of a voluntary system, several discussions centered on the potential for acquisition of historic properties by the City. The committee recognized that these discussions were more in the realm of the Economics and Incentives committee, but felt that they should also be addressed here.

Many scenarios were discussed, the possibilities ranged from options that could be used as incentives for preservation to options that would ultimately remove the owner from the process. The committee recognized that there would be different implications to the City depending on the options.

- A. Purchase/Life Estate – The City could purchase the property (lump sum, installment, other) and allow the owner to remain in the house for “life” or a determined period of time to meet governmental requirements. This alternative may commit City funding for a period of time, but could be fully/partially recouped at a future date. The property would be designated and the designation would run with the property upon its resale.
- B. Purchase through a Right of First Refusal - This option inserts the City into the sale process, but does not initiate the sale of the property. Again this mechanism would result in a community owned property or a designation and resale process.
- C. Purchase/Condemnation - This is considered by the committee to be the last resort in the “proactive voluntary program”. The committee felt strongly that a high threshold of significance and integrity combined with a high level of community agreement needed to be set to allow this process to be undertaken. Once the City owns the building, it can be designated, used for housing or other community needs or resold.

6. Selected Committee Votes:

- A. 8/26/08 Future policy regarding voluntary/involuntary will apply only to undesignated properties. Existing landmarked property status is not subject to change. Yes: 7 No: 0 Abstain:1
- B. 12/6/08 – Should the City of Aspen have a Voluntary program of Historic Preservation for Post World War II properties? Yes: 7 No: 3 Abstain: 0
- C. 07/10/09 - Should the preservation of post WWII properties be accomplished through the proactive voluntary system proposed by the committee? Yes: 6 No: 1 Abstain: 0
- D. 11/18/08 As a precondition to consideration of an Involuntary HP program for post WW II properties, should the City of Aspen first HP designate all City of Aspen owned and Ordinance #48 listed properties? Yes: 9 No: 1

A complete list of Committee straw votes is attached.

7. Proposed Proactive Voluntary Post WW II Historic Preservation Program:  
(See Flow Chart and description below.)
  - A. Use Process as proposed by Criteria Committee:
    1. Context Papers are used to identify potential historic resources.
    2. Integrity Scoring sheets are used to cull and rank the potential Historic Resources.
    3. Establish a list of Post WWII properties of interest, HPC Recommendations final ranked list; City Council ratifies list.
    4. This review process establishes a list of Post WW II properties determined to be “Eligible” for historic designation.

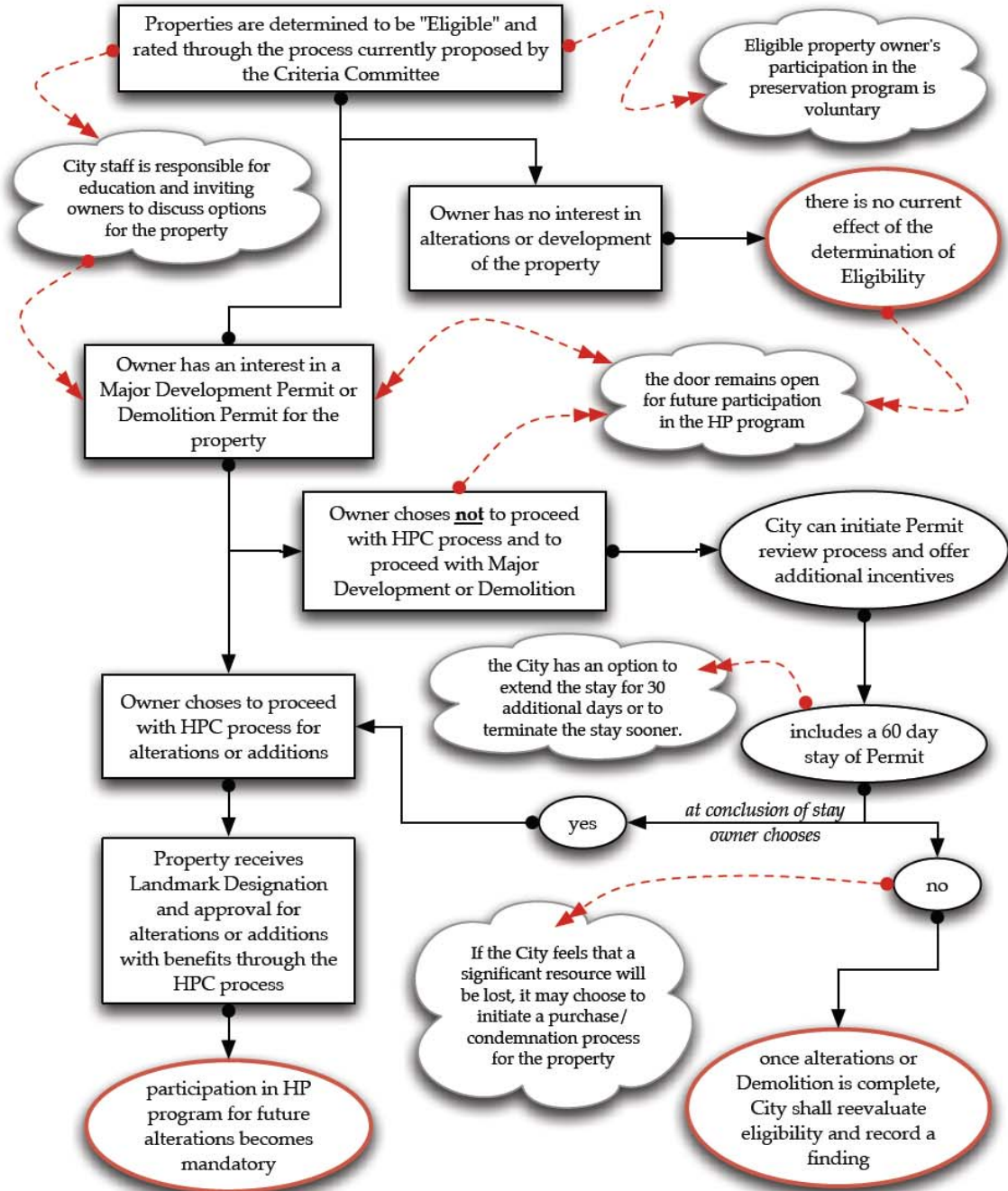
*Note: This achieves the goal of determining and recording historic significance for resources in advance of the development process. Property owners will know if they are Eligible for Historic Designation and at what level before they enter into the process.*
  - B. Owner Outreach:
    1. The owner is aware of their status based on the above process.

The City staff is responsible for educating the owner of historic value, the community interest, potential benefits and incentives and provides an outline analysis tailored to the individual property.
    2. City provides an owner representative to assist the eligible property owner in:
      - a. Understanding the process.
      - b. Understanding the potential benefits and constraints of working through the historic preservation program.
      - c. Working through the process, if the owner chooses to pursue that option.
  - C. At this point the owner of the Eligible property may choose from three paths:
    1. If the owner chooses to make no major changes to the property at this time, the door remains open for the owner to reenter discussions at any point in the future.
      - a. The City will periodically (annually) contact the owner of the Eligible building on the HP program and any changes to the program that may interest the property owner.
    2. If the owner chooses to make alterations that fall under the code definition of a “Major Development” (addition of more than 250 Square Feet or multiple exterior changes):
      - a. The city and the HPC will continue to work with the owner to assemble a benefits and incentives package commensurate with the class designation of the Eligible resource, to encourage the owner to preserve the building and enter into the historic preservation program. The Property Owner would have no obligation to consider Historic Designation and Incentives.
      - b. If an agreement is reached the proposal will be granted approval through the HPC process as with any other designated property.

- c. Once approval for the Major Development is received, the property will be designated as a Landmark and future alterations will fall under the HPC process.
- 3. The owner may choose to proceed with Major Development or Demolition without entering into the historic preservation program.
  - a. The City may choose to initiate a stay for 60 days with the option of extending the stay for 30 more days to make one final effort at creating a package of benefits and incentives to encourage the preservation of the property.
  - b. If it is clear that the City and the owner cannot come to an agreement, the stay may be lifted at any point during that period.
  - c. If it is clear that the City and the owner cannot come to an agreement, and the work that is proposed is so clearly damaging to the resource, and that the loss of the resource will be a serious loss to the community, the City Council may choose to enter into a purchase/condemnation process to acquire the property.
    - 1. The decision to purchase a property must include a finding of the property's high level of significance, its high level of integrity and its value as a historic resource to the community.
    - 2. There must a concurrence of opinion from the public, an independent third party consultant, the Staff, a majority of the HPC, and the City Council.
  - d. If the owner makes alterations to the property or chooses to demolish, the City shall undertake a review of the property through the proposed integrity scoring process and make a determination of eligibility. The building maybe reduced in its classification or removed from eligibility.

Proposal for a Proactive Voluntary System for the Preservation of Post WWII Properties

Aspen Historic Preservation Task Force - Voluntary/Involuntary Committee - July 13, 2009



8. Committee Recommendations:

- No changes to the Landmark designation process for currently designated historic landmarks should be made. This applies to properties that are 100 years old and older and currently designated Post WWII buildings.
- Before implementing or considering an Involuntary or Voluntary Historic Preservation program for Post WW II properties, the City of Aspen should first historically or Landmark Designate all City of Aspen owned properties identified as “Eligible” by proposed criteria.
- The Committee proposes that a proactive voluntary system be created for the preservation of Post WW II Properties as described above.

Attachments:

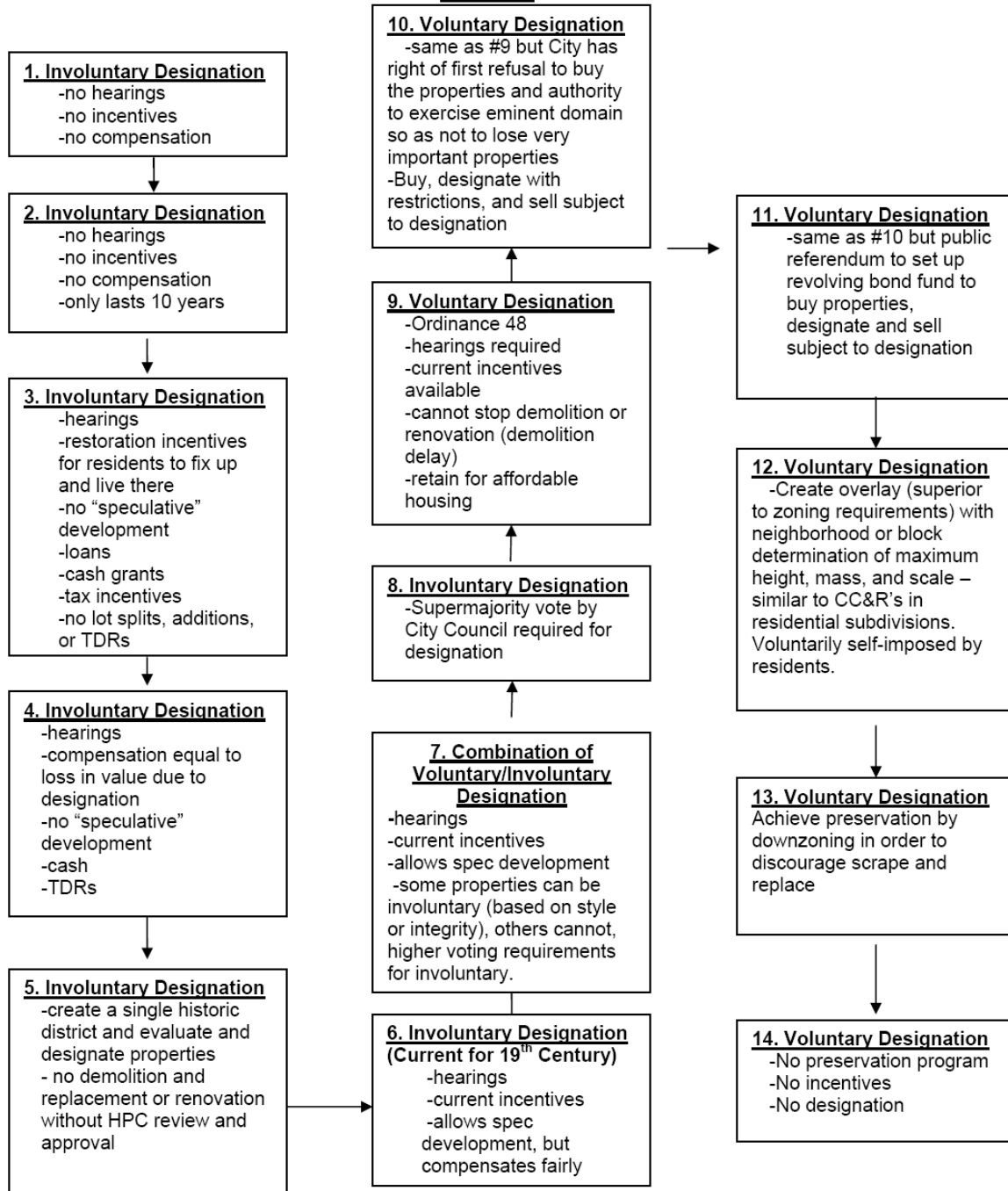
1. Voluntary vs. Involuntary Listing Practices per Task Force Brainstorming Session, June 2008.
2. Continuum of Voluntary vs. Involuntary Historic Preservation Alternatives.
3. Committee straw votes.

### **Voluntary vs. Involuntary/Listing Practices**

- Is there any way for structures on the “list” to appeal or get off the “list”? Why not? Should there be a way?
- Being on the list is a penalty
- Are the needs of the community more important than the individual, can they be compatible
- Fairness- no historical designation without agreement of owner
- Owner consent required, right of private property ownership fundamental rights of property owners
- Can we make an interim recommendation to relieve the 68 property owners from “purgatory?”
- If the property owner is involuntarily forced to be on the list and can not agree with “incentives” can he be removed?
- How to: incentivize property owners to voluntarily participate in historic designation.
- Can a property owner voluntarily designate a new property?
- Lengthy, costly process for small exterior changes for homes on “the list”
- Intentions of council vs. reality of practice for homeowners “on the list”- can we help?
- Is it true that being on the list or being designated historic is voluntary?
- At what cost should we have involuntary designation
- Left to its own devices would the private sector leave any potentially historic properties standing?
- Owner support for post war preservation?
- Should there be involuntary designation for Post WW II structures?
- Should the economic impact of historic designation be considered in involuntary designation?
- Should properties be preserved against the objections of the owner?
- Should/can you designated without owner consent
- Voluntary/involuntary designation
- Voluntary or involuntary historic preservation program

**Voluntary Involuntary Committee: Continuum**

**DRAFT**



**Voluntary/Involuntary Committee**  
**Historic Preservation Task Force**  
**Straw Vote Summary - Decisions Made to Date:**

**Members:**

Michael Behrendt, Penny Evans Carruth, Marsha Cook, Yasmine dePagter, John Kelly, Lisa Markalunas, Mike Maple, Joe Myers, Suzannah Reid, Jack Wilke, Bill Wiener

07/13/09 Meeting:

1. As a condition to implementing or consideration of an Involuntary or Voluntary Historic Preservation program for Post WW II properties, the City of Aspen should first historically or Landmark Designate all City of Aspen owned properties identified as "Eligible" by proposed criteria. Yes: 6 No: 1 Abstain: 1
2. The Committee approves submittal of the Voluntary / Involuntary Report to the Historic Preservation Task Force. Yes: 7 No: 1 Abstain: 0
3. 07/10/09 - Should the preservation of post WWII properties be accomplished through the proactive voluntary system proposed by the committee? Yes: 6 No: 1 Abstain: 0

04/10/09 Meeting:

4. In a Proactive Voluntary program for the Historic Preservation of Post WW II properties, should the City have a Major Development or Demolition review (similar to Ordinance #48)? Yes: 1 No: 5 Abstain 0
5. In a proactive Voluntary program for the Historic Preservation of Post WW II properties, should the policy include the City's right to purchase a Historic Property as final safe guard of the HP program? Yes: 1 No: 5 Abstain 0
6. If a proactive Voluntary program for the Historic Preservation of Post WW II properties includes the City's right to purchase a Historic Property as final safe guard of the HP program, should such purchase include alternatives that allow the Owner to continue to live in the property such as Life Estates, Right of First Offer, etc? Yes: 6 No: 0 Abstain 0
7. 12/6/08 – Should the City of Aspen have a Voluntary program of Historic Preservation for Post World War II properties? Yes: 7 No: 3 Abstain: 0

11/18/08 Meeting:

8. Does being on list such Ordinance #48 create at least short to intermediate term (6 – 12 month) psychological and financial burdens for post WW II property Owners? Yes: 7 No: 0 Abstain: 2

9. Should HP Incentives be awarded to maintain approximate economic parity for an HP Designated property versus the same property unencumbered by HP Designation? Yes: 9 No: 1 Abstain: 0
10. Should HP Incentives awarded in an Involuntary and Voluntary HP Program be approximately the same? Yes: 9 No: 1 Abstain: 0
11. In some cases, have HP Incentive awards created development opportunity and incentives versus non HP properties? Yes: 10 No: 0
12. As a precondition to consideration of an Involuntary HP program for post WW II properties, should the City of Aspen first HP designate all City of Aspen owned and Ordinance #48 listed properties? Yes: 9 No: 1
13. If an Involuntary HP program for Post WW II properties is considered, the Historic Criteria Standard should be set high, greatly reducing the list of Post WW II properties. Yes: 4 No: 0 Abstain: 5
14. Is the Aspen Community as we perceive it concerned with HP of Post WW II properties? Yes: 4 No: 6 Abstain: 0
15. Is the Aspen Community as we perceive it concerned with "mass & scale"? Yes: 10 No: 0
16. Is the Aspen Community as we perceive it concerned with a high level of construction/development activity? Yes: 10 No: 0
17. Any Involuntary HP program for Post WW II properties should have demonstrated broad community support. Yes: 7 No: 3 Abstain: 0
18. Should the City of Aspen consider creating a fund whereby targeted HP properties are purchased, designated and resold (or converted to Affordable Housing)? Yes: 9 No: 1 Abstain: 0
19. Should the City of Aspen consider creating economic incentives such as property tax relief, grants, life estates, etc. to encourage property owners to maintain properties in the short/intermediate term without major re-development? Yes: 9 No: 0 Abstain: 1
20. Does current City of Aspen Zoning create incentives for development? Yes: 4 No: 0 Abstain: 6 (Group advised we should revisit)
21. Should current City of Aspen Zoning (versus HP) be considered to mitigate incentives for development? Yes: 2 No: 3 Abstain: 5

22. 11/4/08      Would you support a Voluntary HP program for post WW II properties with appropriate incentives?    Yes: 4 No: 2 Abstain: 1
23. 10/28/08      Should the economic impact of Historic Designation of a property be considered in involuntary/voluntary designation (reference 2000 AACP – “...reason, balance, predictability and economic fairness...”) ? Yes: 5 No: 0 Abstain/no decision:2
24. 9/9/08      No property should be designated without public process and appeal process.    Yes: 9 (Unanimous) No: 0
25. 8/26/08      Future policy regarding voluntary/involuntary will apply only to undesignated properties. Existing landmarked property status is not subject to change.    Yes: 7 No: 0 Abstain:      1

## Minority Opinion for Voluntary /Involuntary Committee

By Joe Myers

Aspen's 37 year Historic Preservation Program has been extremely successful by almost any measure. The bedrock foundation of the program has been Involuntary Designation. How many of our 19<sup>th</sup> century treasures would have been lost had we relied solely on Voluntary Designation? The Wheeler Stallard House? Pioneer Park? The Jerome Hotel? There is no telling, but it would have been many.

Of course, we would all prefer Voluntary Designation exclusively. It certainly works in places that have plenty of alternative sites for new construction. However, in Aspen alternative sites are scarce, and many people, particularly professional developers and second homeowners who are not vitally connected to Aspen and its history, cannot be trusted to participate in Voluntary Designation.

For example, one member of our Task Force whose house was listed on Ordinance 48 has proceeded with demolition or heavy renovation plans during the last six months, and no amount of negotiation by staff, HPC and Council, nor the offering of numerous incentives, has dissuaded our member's intention from changing this house beyond historic recognition. I do not say this critically, because it is not an isolated case nor the exception, but simply normal conduct for many in Aspen. The house was purchased in order to be torn down and no incentives will change that. Thus, if we have post war historical treasures (and this house was certainly not one of them) either now or in the future, they are in danger if the Committee's recommendations are followed by the City.

The Committee suggests that the City condemn by eminent domain any buildings that it wants to save. John Worcester, the City attorney for Aspen has told us that during his long term of service, the City has never initiated an eminent domain proceeding for any purpose, and that the City is unlikely to ever use it for historic preservation purposes. And why should the City even be asked to resort to eminent domain when Involuntary Designation has worked so well for it? Of course, we all know from our consultants that a properly formed preservation

program like Aspen's does not constitute an unlawful "taking" but is a proper exercise of the police powers of the City and is a legal and proper tool for the preservation of a community.

Some on our Committee think that Involuntary Designation is unfair. However, staff reports that in the 37 year history of Aspen's Preservation program, it is not aware of a single lawsuit that has been filed against the City for Involuntary Designation. In fact, one of the appraisal experts called by the Economics and Incentives Committee was asked if he appraised a property the day before its Involuntary Designation and again the day after, would there be a diminution in value, and if so, how much. He said he could not tell if there was any diminution in value and if there were some that he thought possible, he could not tell how much.

Thus, the issue is not how each of us individually feels about private property rights or general concepts of fairness, but whether we will recommend that a major tool of preservation, used by cities and counties throughout the country and by Aspen so successfully, should be discarded for post war properties.

However, a program of Involuntary Designation, no matter how necessary or desirable, does not have to be either punishing or feared. Any future program of Involuntary Designation for post war properties in Aspen should be strictly limited to properties that are:

1. Inextricably bound to one of our three principal threads of Aspen post war history (the emergence of the ski industry [ex. small lodges], the cultural renaissance [ex. the guest house where Albert Schweitzer stayed in July 1949 and selected buildings on the non-profit campuses] and Aspen as a destination for tourists and second homeowners [ex. a few rustics, such as Mountain Rescue and the L'Aubergecabins]); and
2. Located within the geographical boundaries formed by the Roaring Fork River, Castle Creek, and Aspen and Shadow Mountains (original historic Aspen); and
3. Not single family or duplex residential houses except in extremely rare circumstances; and

4. Commercial in nature, multi-family or owned by non-profit entities;  
and

5. Recommended by staff and approved by a majority (or super majority) of the members of HPC and Council.

In addition, while each property once involuntarily designated may not be demolished without HPC approval for “delisting”,

A. renovations may be made to the property freely by the owner without any requirement for approval of staff, HPC or Council; and

B. each such property will receive abatement in whole or in part from City of Aspen ad valorem real estate taxes so long as the property is not demolished or substantially renovated; and

C. a property should be allowed to be delisted by HPC when, even though it has been properly maintained, it becomes functionally or economically unusable and no reasonable adaptive reuse for the property is available; and

D. the owner of each property so designated will be honored by the City for his or her contribution to the heritage of Aspen.

Joe Myers



stewardship. This is true regardless of whether designation is voluntary or involuntary. A voluntary program however, uses the desire for development as the motivation for designation. This will lead to a bargaining process in which the city will be held under the threat of demolition. This will likely result in greater compensation in the form of development rights or money, further adding to the impression that historic lots are already overdeveloped. Involuntary designation will allow the incentives to be moderated and kept in more line with acceptable community impacts. A voluntary system cannot work without incentives that cross that line, whether in terms of mass and scale or financial commitments on the part of the City.

Fear and emotion are always a factor in property ownership with or without historic designation. These emotional issues must be respected and understood for what they tell us about the community we live in. Historic preservation seems to take the brunt of these emotions. A voluntary program may alleviate the fears of some, but will add to the fears and frustrations of others. The emotional equation is not reconcilable. The discussions at the Task Force table are indication enough of the variety of emotions that are at work in our community. We have planning bodies for the purpose of removing emotion from decision making; again to take the longer view.

The decision to designate a property and subject it to an involuntary system should not be undertaken lightly. It is critical to ensure that only properties that are deserving of preservation through objective criteria be preserved. And that the incentives that are given are fair and in line with other City goals. The City also has the responsibility to inform and educate both historic property owners and other members of the community on the value of preservation and the particulars of the process.

The most often heard criticism of the current program is that it is arbitrary, arduous, and ineffective. While I don't believe this is true, it means that we can do better. The choice between a voluntary or involuntary system does nothing to alleviate these criticisms. I believe that we have better chance of being more predicable, streamlined, and defensible with an involuntary program and we certainly have a better chance at actually effectively preserving our unique history for future generations.

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<sup>i</sup> This group is intended to include all buildings and sites that would be considered eligible for designation under the proposed Criteria and is not limited by the date implied by the title "Post WWII Properties".