

Thursday July 24th, 2008: 4:30 – 6:30pm
Community Development Building - 51 Winburn Way

1. (4:30) Approval of Minutes

June 26th, 2008 Regular meeting Minutes
July 12th 2008 Retreat Minutes

2. (4:35) Public Records and Meetings Law

Barbara Christensen and Richard Appicello presentation (10 min)
Commissioner Q &A (5 min)

3. (4:50) Public Forum

4. (5:00) Subcommittee Reports

Subcommittee Reports

Finance (7-22-2008) (Voisin -10 min)
Education (none)
Land Use (none)

Liaison reports

Council (Hardesty)
Parks Commission
School Board
Planning Commission

Discuss Subcommittee Structures –

follow up item from Retreat Item not covered (10 min)

Final Thoughts on the Retreat (5 min)

6. (5:25) Project Updates

Stratford Apartments

7. (5:30) Amendments to the Annexation and Zone Change Ordinances (40 min)

Commission Review and Recommendation

8. (6:10) Information on Section 108 Loan Program (10 min)

9. (6:20) August 28th Agenda Items

Commissioner items suggested (5 min)

Quorum Check – Commissioners not available to attend upcoming regular meetings should declare their expected absence.

10. (6.25) Upcoming Events and Meetings

Parks Commission Meeting July 28th, City Council Chambers 7-9:00

Annexation Ordinance Public Hearing -Planning Commission August 12, 7:00-10:00

Next Housing Commission Regular Meeting

4:30-6:30 PM; Thursday August 28th, 2008 Community Development Building

11. (6:30) Adjournment

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development office at 541-488-5305 (TTY phone is 1-800-735-2900). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1).



**CITY OF
ASHLAND**
ASHLAND HOUSING COMMISSION
MINUTES
June 26, 2008

CALL TO ORDER

Chair Bill Smith called the meeting to order at 4:30 p.m. at the Community Development and Engineering Services Building, 51 Winburn Way, Ashland, OR 97520.

Commissioners Present: Richard Billin	SOU Liaison: Alexandra Amaratoco, Absent
Nick Frost, arrived at 4:40	
Graham Lewis	Council Liaison: Alice Hardesty, absent
Steve Hauck	
Bill Smith	Staff Present::
Aaron Benjamin	Brandon Goldman, Housing Specialist
Regina Ayars	Carolyn Schwendener, Account Clerk
Commissioners Absent	Linda Reid, Housing Specialist
Carol Voisin	

APPROVAL OF MINUTES

Lewis/Hauck m/s to approve the minutes of the May 22, 2008 Housing meeting. Voice Vote: Approved

INTRODUCTION OF LINDA REID, HOUSING PROGRAM SPECIALIST

The Commissioners welcomed Ms. Reid. Reid expressed her enthusiasm as the new Housing Program Specialist for the City of Ashland.

It was decided to move the Public Forum to approximately 5:40 p.m. after the Affordable Housing discussion.

REPORTS AND UPDATES

Subcommittee Reports

Liaison Reports

Parks – Hauck reported that the developer, Doug Irvine, withdrew his original proposal regarding the Westwood property. Goldman said after the Parks Commissions’ first meeting the developer was concerned about going forward with the process but still decided to stay in it. After the Housing Commission meeting he then decided that he was no longer interested in being the developer of it because of the risk involved in terms of appeals though he is still interested in selling the Clay Street property to the City of Ashland. Goldman explained it is now the Parks Commissions’ decision if they want to develop it themselves. On July 28, 2008 Don Robertson, City Parks Director, will come back to the Parks Commission with a list of potential revenue streams as well as a list of properties that could also be considered surplus.

Goldman acknowledged if the City doesn’t acquire the property Irvine will go forward with a 107 unit development which includes 17 affordable units.

Planning Commission (Annexation) – Ayars reported that she got the impression that the Planning Commission was open to moving forward with the Annexation Ordinance and didn’t resist the changes other than the “cash in lieu of” provision. Benjamin commented that the Commissioners were not very enthusiastic but would ultimately go along with the package with some resistance. Benjamin thought the cash in lieu of was a good idea because if a developer decides he doesn’t want to go with the affordable units, and would rather pay cash, it would be a source of funding to the Housing Trust Fund. Reid explained that cash in lieu of is more of an actuality verses an eventuality situation. She explained that you are giving up actual affordable housing being put on the ground for the eventuality that some day you may have them.

AFFORDABLE HOUSING TRUST FUND DRAFT ORDINANCE AND RESOLUTION

Goldman gave a summary of the draft ordinance and resolution. He explained there are three separate components being presented.

1. An ordinance which establishes the Trust
2. Resolution that establishes the policies and procedures
3. A resolution dedicating anticipated rehabilitation loan repayments that could be directed to the Housing Trust Fund.

Goldman and the Commissioners discussed the ordinance and resolution making grammatical corrections as well as recommendations.

The change of substance was 8.18 adding that the selection criteria shall be rated as indicated in the annual RFP as reviewed and approved by the Housing Commission.

Smith opened the discussion for Public Testimony – No one spoke

When the resolution goes to the City Council Goldman said he anticipates the question “Why are you presenting a Housing Trust Fund if you don’t have a revenue source to put into it.” In 2005 and 2006 Goldman had a number of loan repayments come across his desk for an old CDBG program. Goldman noticed that a lot of money was repaid for old rehab loans through that program. In questioning where those funds were going he asked Reid to look into that loan program.

Reid replied that the resolution talks about the grant in 1985 for \$478,968 to make energy conservation permits on houses. The payoffs have been coming back and because they were not earmarked for anything they were put into the General fund and used for capital improvements. The amount is down to a little under \$100,000. Reid suggested it would be a good time to allocate the money for the Housing Trust Fund. Goldman realizes that though this might not produce any real revenue the idea is to have some initial revenue source that would go along with this ordinance. Though this is not a sustainable revenue stream for the Housing Trust Fund it would be considered a legal source of funding.

Goldman explained if the Council approves the Housing Trust Fund and the Resolution of the policies and procedures they do that as one action. With that being created then they are asked the question “Will you approve this Resolution to put money into?”

Hauck/Billin m/s that we forward this to the City Council with the recommendations that they adopt both the ordinance and the resolutions. Voice Vote: Approved.

Benjamin commended Goldman and Reid for a job well done.

PUBLIC FORUM

Jason Elzy, with the Housing Authority of Jackson County commended the Commission for considering the two Resolutions as they are a valuable tool for the housing developers in the valley. As an affordable housing developer going out for funding sources without community support makes it almost impossible to receive the necessary money to preserve housing, stated Mr. Elzy.

Cate Hartzel shared that she recently attended a summit on Homelessness in Salem. The meeting had a variety of speakers and panels talking about what communities across the State have done in the way of implementing plans for the homeless. Hartzel brought back materials from the meeting and distributed them to the Commissioners.

Hartzel had the opportunity to speak with Doug Carlson the Regional Director of HUD. Mr. Carlson believes the housing crisis has not quite touched Oregon the same way it has the other states. Hartzel’s concern since the rental analysis has come out is that due to some design factors in that study it might not have given a true picture of what the rental market is really like in Ashland. Hartzel spoke with Mr. Carlson regarding ideas on how to update the needs assessment. Hartzel said looking at identifying the ownership pattern is a vulnerability criteria the City needs to identify as well as tracking the occupancy rate. Once the occupancy gets five percent or less we won’t be having affordably housing stated Hartzel. Mr. Carlson said as the housing market begins to be problematic the importance of rentals go up.

Hartzel encouraged the Commissioners at their upcoming retreat to think about new goals to include homelessness and dealing with vulnerable properties.

Lewis acknowledged that one of the biggest voids among the homeless with ICC is a mailing address for them so they can continue to get the State services. Lewis said they are looking at the possibility of doing something with the Peace House.

Goldman said that identifying ownership patterns and occupancy rates as well as tracking rental rate changes is not something that is feasible. In our market there is no single source that can give us anything declared in terms of vacancy rates. Individual property managers only know what the vacancy rates are for their properties and in many cases only know the last month and not the last year for that period. Goldman said the rental needs analysis indicated that in order to do a better rental needs analysis the City or the region should consider some sort of rental registry program similar to the one the City of Medford recently adopted. The registry program tracks within their jurisdiction what the number of rental units are, how much they are renting for as well as the occupancy rates.

COMMISSION ANNUAL RETREAT

The retreat will be July 12, 2008 at the Parks Department office located within Lithia Park at the intersection of Winburn Way and Granite Street. 9:00 a.m. – 1:00 p.m.

The Commissioners are to bring their Housing Manuals with them and the Housing Work plan.

Suggestions for topics of discussion:

- Make up of the Commission-number of members and if the Council Liaison is a voting member or not.
- Priorities of the Action Plan

ITEMS FROM COMMISSIONERS NOT ON THE AGENDA

Benjamin came across an interesting editorial from the New York Times dated May 26. The editorial explained that in the jurisdiction one affordable unit is currently required for every eight market rat units and they are suggesting making it one for every five. The downside is that it makes little economic sense to increase the number of units since many small towns offer little job opportunity and no public transportation to places where the jobs are located.

UPCOMING EVENTS AND MEETINGS

Regular Housing Commission meeting July 24, 2008 at the Community Development Building 4:30-6:30. There is a possibility that Billin and Frost may not be able to attend.

ADJOURNMENT – The meeting was adjourned at 6:20 p.m.

*Respectfully submitted by,
Carolyn Schwendener, Account Clerk*

**CITY OF
ASHLAND**
ASHLAND HOUSING COMMISSION RETREAT
MINUTES
July 12th, 2008

The annual Housing Commission Retreat took place in the Parks and Recreation Department Building at 340 South Pioneer Street from 9:00am to 1:00pm .

Commissioners Present:	SOU Liaison: Alexandra Armarotico, absent
Bill Smith	
Richard Billin	Council Liaison: Alice Hardesty
Regina Ayars	
Steve Hauck	
Aaron Benjamin	Staff Present::
Graham Lewis	Linda Reid, Housing Specialist
Carol Voisin	Brandon Goldman, Senior Planner
Nick Frost	

Commissioners discussed the following items

Components of the Housing Binder

It was noted that the binders provided to Housing Commissioners should be updated to include the following
 Rental Needs Analysis
 Resolution 2006-13 (SDC resolution and corresponding affordability tables)
 Tenant Rights
 Condominium Conversion Ordinance

Reviewed progress on the Affordable Housing Action Plan

Discussed status of potential housing development projects

Clay Street acquisition
 Stratford Apartments.

Discussed Housing Commission membership

- Homeless Liaison non voting representative
- Council Liaison as a voting or non-voting member
- Siding membership number scale (i.e. 7-9) to adjust quorum size dependant on number of members appointed at a given time.
- Commissioners agreed to place this item on a future agenda for further discussion (August)

Discussed potential Goals for an 18 month period through December 2009

- Establish streams of income for Affordable Housing Trust Fund
- Assisting in the development of a large Affordable Housing Complex
- Limiting development of Single family in multifamily zones
- Identify lands for potential rezoning to promote higher densities –
 - Examine change of Comprehensive Plan Designations for lands within the UGB but outside the City Limits
 - Identify criteria to pre-identify lands within the City Limits that may be suitable for rezoning by applicants. Goldman discussed concepts relating to Transfer of Development Rights (TDR) that may inform the development of such criteria.

- Target City owned air rights/Vertical Housing RFP for parking lots
- Education and Outreach (3 outreach events over an 18 month period)

Discussed Housing Market Conditions and impacts on Affordable Housing

Remaining items that were briefly mentioned but not discussed at length during the retreat included, Rental Registry, vulnerable properties, the Housing Work Plan, subcommittee make up, and available land and infill.

Adjournment at 1:00 p.m.

*Respectfully submitted by,
Brandon Goldman, Senior Planner*

- **Ashland Annexation / Zone Change Ordinance Development**
Review and Recommendations

Ashland Housing Commission Packet
July 24, 2008

Housing Commission Communication

TO: Housing Commission
Title: Amendments to the Annexation and Zone Change ordinances
Date: July 24, 2008
Submitted By: Brandon Goldman, Senior Planner

The Housing and Planning Commissions have worked on revising Ashland’s current annexation policies specifically as they relate to promoting the development of affordable workforce housing to the point where draft ordinance changes are now being presented for consideration.

Revisions to the existing ordinances have been proposed to ensure the provision of affordable housing is both timely and equitable. These issues are as follows:

- Percentage of affordability
- Land Dedication
- Construction Timing
- Distribution of Affordable Housing
- Construction Standards

It is important to note that the purpose behind amending the annexation ordinance at this time has been limited to addressing the provisions specifically relating to affordable housing to better reflect policy objectives for affordable and workforce housing.

The Planning Commission reviewed the draft ordinance at a study session on June 24th (minutes attached) and discussed specific provisions they would like to see included in a final draft. The Housing Commission is requested to review the ordinance as proposed and forward a recommendation to the Planning Commission and City Council for their consideration.

The draft ordinance changes and the Housing Commission recommendation are to be presented to the Planning Commission on August 12th, 2008 in advance of the City Council review. The schedule provided below outlines a public review process that is underway to complete this activity.

July	August	September	October
Final Draft Ordinance Developed	Planning Commission Public Hearing Ordinance Recommendations August 12, 2008	City Council First Reading September 16, 2008	City Council Second Reading October 7th, 2008
Housing Commission Recommendations, July 24, 2008	City Council Study Session August 19, 2008		Adopted Ordinance to DLCD



As presented the proposed ordinance amendments are largely consistent with example language presented to the Housing Commission at prior meetings. Specific items which have been the prominent subjects of discussion by the Housing Commission and Planning Commission are outlined below.

Section 18.106.030 G(1)

This proposed approval standard establishes an “equivalency value” for affordable housing units as a means of providing greater flexibility in the mix of income levels targeted by a development.

- 1) The total number of affordable units provided to qualifying buyers, or to qualifying renters, shall be equal to or exceed 25% of the base density as calculated using the unit equivalency values set forth herein:**
 - a. Ownership units restricted to households earning at or below 120% the area median income shall have an equivalency value of 0.75 unit**
 - b. Ownership units restricted to households earning at or below 100% the area median income shall have an equivalency value of 1.0 unit.**
 - c. Ownership or rental units restricted to households earning at or below 80% the area median income shall have an equivalency value of 1.25 unit.**
 - d. Ownership or rental units restricted to households earning at or below 60% the area median income shall have an equivalency value of 1.5 unit, or;**

There has been general agreement that the concept of applying such equivalency values is an appropriate way to add flexibility to the ordinance and as such promote developments that target various income levels. Within this section however there has been discussion by both the planning commission and the Annexation ad-hoc review committee regarding subsection “c” as it relates to rental housing.

Specifically the question has been raised as to whether any affordable rental housing units targeted to households earning 80% the Area Median Income (AMI) should qualify in meeting this standard. A concern raised is that as rents for households at 80%AMI are essentially equal to today’s market rental rates (a household earning 80%AMI can afford to rent a two bedroom for \$805 per month), it raises the question as to whether meeting this standard provides any additional affordability not otherwise provided by the market. Alternatively, it has been suggested that to include *rental units* within this specific standard would promote the development of dedicated rental units which are not otherwise being developed in our community by the marketplace.

The Rental Needs Analysis (2007) found that rental rates in Ashland are likely to increase substantially in the near future (*Future Market Conditions pg 7*), and as such regulated rental units targeted to 80%AMI are likely to become below market rentals as market rate rents increase. The Rental Needs Analysis expresses the issue as such:

The lack of rental property production is due to basic market economics. It is simply more profitable to build and sell a multi-family unit as a condominium than it is to rent it as an apartment.

The only way for the development community to have a financial incentive to build multi-family rental properties would be for rental rates to increase, which is detrimental to the overall affordability of Ashland’s market.

As a result, any solution to the problem will require balancing affordability while maintaining or promoting a market incentive for apartment development.



A number of members of the Planning Commission expressed a desire to further promote rental units even at the 80%AMI level. The Housing Commission has previously discussed this issue and had expressed a desire to omit rental units from consideration under subsection c, thereby considering only units targeted to households earning 60%AMI as qualified affordable rental units.

Section 18.106.030 G(2)

This proposed approval standard allows for a developer to transfer ownership of property to an affordable housing provider as a means of satisfying their obligations under the ordinance. Transfer of property allows housing providers experienced with affordable housing to more readily partner with for-profit developers to complete the affordable housing component required by the annexation or zone change. This provision is similar to the existing ordinances allowance for such a transfer.

Section on Cash in Lieu : Removed from Draft

The existing Annexation and Zone Change Ordinances do not provide an alternative for Cash-n-Lieu fees. Such fees are often an option for developers to contribute a set amount into an affordable housing fund, to enable the City to apply those funds to meet its housing goals in another manner or through purchase of another site or support of housing programs.

Should the City wish to examine in-lieu fees as a viable option in the future it seems appropriate to incorporate language in a modified annexation or zone-change code at this time that would maintain that option. However the City in accepting such fees would be essentially be allowing a development to be built exclusive of affordable housing. This would then shift the onerous to the City to identify alternative property and coordinate the development of a comparable amount of units to realize the same benefit that would have been achieved were the affordable units originally included in the development.

Staff is concerned that implementation of a Cash-n-Lieu fee program may not be an effective means as distributing affordable units throughout the City as would be the case with their incorporation in each independent annexation or zone-change. Further, the Planning Commission at their study session on June 24th also expressed concern regarding Cash-in-Lieu fees as a substitute for actual affordable housing unit development and as such requested it not be included in a final draft proposal. Language was provided in initial draft ordinance language but has been omitted in the attached draft ordinance being presented for consideration

Section 18.106.030 G(3)

This new section is proposed with two purposes in mind;

- 1) Ensuring that affordable units provided by a development are both comparable in terms of number of bedrooms with the market rate units developed;
- 2) Ensuring affordable units provided are not substandard in terms of total square footage.

- 3.) The affordable units shall be comparable in bedroom mix and housing type with the market rate units in the development.
 - a. The minimum square footage of each affordable unit shall comply with the minimum required floor based as set forth in Table 1.

Table 1



Unit Type	Minimum Required Unit Floor Area (Square Feet)
Studio	350
1 Bedroom	500
2 Bedroom	800
3 Bedroom	1,000
4 Bedroom	1,250

- b. The required on-site affordable units shall be comprised of the different unit types in the same proportion as the market dwelling units within the development.

The unit sizes in Table 1 were largely derived from using the minimum unit sizes from the State of Oregon’s HOME affordable housing program standards with one notable exception. The minimum unit size for 1 bedroom units under the State program is 600sq.ft. However, as Ashland’ ordinances use 500 square feet as a delimiter for both density calculations and parking requirements by adjusting this down to 500sq.ft. we would allow greater opportunities for site design and potentially allow for an increase in the total number of affordable units (utilizing the 0.75 unit density designation for units 500sq.ft. or less) than could otherwise be provided were the standard to remain at 600sq.ft. This potential change was suggested at the Annexation Ad-Hoc Committee and Staff believes such a change has merit and should be considered for inclusion in the final ordinance.

To address concerns raised regarding the question of whether affordable units provided in a development would be a comparable mix of housing types containing single-family detached units, attached units, multi-family apartment type units or other housing types, the section 3(b) above was added following the Planning Commission Study Session. Essentially by requiring that unit types be “in the same proportion” to the market rate units the potential of a development where all market rate units are detached single family homes, and the proposed affordable units are all multi-family apartments or townhomes would be precluded unless an exception to this standard were obtained (see 18.106.030H2).

In considering this proposed standard, to have a proportionate mix of housing types, although it may reduce some flexibility on behalf of affordable housing providers, in increasing the variety of affordable housing unit types it would likely increase the range of incomes targeted by developers . For example , detached single family homes provided to comply with the affordable housing requirement and unit mix standard would likely be targeted to households earning between 120 and 100%AMI, whereas townhomes would likely be targeted to households at 100 or 80%AMI. The proposed changes to section 18.106.030G1 establishing equivalency values provide the flexibility to accommodate this proposed unit mix requirement.

Section 18.106.030 G(5)

Under the existing ordinance there is no established criteria that addresses how a project is to be phased, specifically identifying at which point affordable housing units are constructed relative to the market rate units within the development. The section below is intended to remedy situations where all the market rate units are developed and the affordable housing component remains unbuilt. By phasing the development as follows the City can be assured that all the affordable housing will be made



available for occupancy on approximately the same schedule as the projects market rate units.

- 5) **A development schedule shall be provided that demonstrates that that the Affordable Housing Units per 18.106.030(G) shall be developed, and made available for occupancy, as follows:**
 - a. **That 50% of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50% of the market rate units.**
 - b. **Prior to issuance of a building permit for the final 10% of the market rate units, the final 50% of the affordable units shall have been issued certificates of occupancy.**

Section 18.106.030 G(6)

The desire articulated by the Housing Commission and other community members has consistently been to “scatter” affordable housing throughout the community and on individual projects to reduce the potential for stigmatization of a “low-income area” and further to support income integration as a community value.

Concern had been raised by non-profit housing providers that mandating a method of scattered site development may impede funding sources, specifically state funding sources. The State representative from the department of Housing and Community Services has indicated that this is not the case and that scattered site proposals can be funded without compromise. The Rogue Valley Community Development Corporation has indicated that the economy of scale of “clustered” development is beneficial to their application of the Self Help Program and as such did not recommend language that required scattering of units.

Staff believes that given the scale of developments in Ashland the issue of “clustering” is not pronounced in our community or individual development projects. Even in what Ashland considers to be large projects (ie 40-100 units), the number of affordable units provided do not typically appear to create distinguishable “low-income areas”. However the underlying philosophy to distribute affordable units throughout a project can still be accommodated in most development projects and thus a standard has been developed and included in the draft ordinance for review (18.106.030 G5).

Planning Commissioners at the Study Session on June 24th also expressed a desire to consider language that would aim to not just distribute the units throughout the project, but also ensure they are compatible in terms of building materials and amenities. To this end the draft ordinance being presented includes language as follows:

18.106.030G(5)

That affordable housing units shall be distributed throughout the project and shall be constructed using comparable building materials and including equivalent amenities as the market rate units.

Section 18.106.030 (H), Exceptions

This sections outlines the exceptions to the requirements of 18.106.030.G(2), 18.106.030.G(3), and/or 18.106.030G(4) and or 18.106.030G(5) that may be approved by the City Council upon consideration of the alternatives proposed. This flexibility is intended to allow the City to consider proposals that may accomplish



additional benefits for the city or provide adequate assurances that the intention of the standards is met. An important point to note is that the language presented states that exceptions “may be approved by the City Council” and thus applicants will be unlikely to apply for a discretionary exception when meeting the standard is feasible.

H. Exceptions to the requirements of 18.106.030.G(2), 18.106.030.G(3), 18.106.030.G(4), and/or 18.106.030G(5) may be approved by the City Council upon consideration of one or more of the following:

- 1) That an alternative land dedication as proposed would accomplish additional benefits for the City, consistent with the purposes of this chapter, than would development meeting the on-site dedication requirement of 18.106.030(G)2, or;
- 2) That an alternative mix of housing types not meeting the requirements of 18.106.030.G(3)(b) would accomplish additional benefits to the City consistent with this chapter, than would the development providing a proportional mix of unit types.
- 3) That the alternative phasing proposal not meeting 18.106.030.G(4) provided by the applicant provides adequate assurance that the affordable housing units will be provided in a timely fashion,or;
- 4) That the materials and amenities applied to the affordable units within the development, that are not equivalent to the market rate units per 18.106.030.G(5), are necessary due to local, State, or Federal Affordable Housing standards or financing limitations or;
- 5) That the distribution of affordable units within the development not meeting 18.106.030.G(5) is necessary for development of an affordable housing project that provides onsite staff with supportive services or;
- 6) That the distribution of affordable units within the development as proposed would accomplish additional benefits for the city, consistent with the purposes of this chapter, than would development meeting the distribution requirement of 18.106.030.G(5)

Full copies of the proposed Zone Change and Annexation Ordinances are attached



DRAFT CHANGES TO THE ANNEXATION ORDINANCE

7-24-08

Additions are indicated in **Bold and Underlined**, deletions in ~~strikeout type~~.

CHAPTER 18.106

- 18.106.010 Procedure.**
- 18.106.020 Application.**
- 18.106.025 Initiation by Council.**
- 18.106.030 Approval Standards.**
- 18.106.040 Boundaries.**
- 18.106.050 Statutory procedure.**

SECTION 18.106.010 Procedure.

All annexations shall be processed under the Type III procedure. (ORD 2791, 1997)

SECTION 18.106.020 Application.

Except for annexations initiated by the council or commission pursuant to section 18.106.025, application for annexation shall include the following information:

- A. Consent to annexation which is non-revok~~able~~ cable for a period of one year from its date.
- B. Agreement to deposit an amount sufficient to retire any outstanding indebtedness of special districts defined in ORS 222.510.
- C. Boundary description and map prepared in accordance with ORS 308.225. Such description and map shall be prepared by a registered land surveyor. The boundaries shall be surveyed and monumented as required by statute subsequent to Council approval of the proposed annexation.
- D. Written findings addressing the criteria in 18.106.030.
- E. Written request by the property owner for a zone change. Provided, however, no written request shall be necessary if the annexation has been approved by a majority vote in an election meeting the requirements of Section 11g of Article XI of the Oregon Constitution (Ballot Measure No. 47). (ORD 2792, 1997)

SECTION 18.106.025 Initiation by Council.

A proposal for annexation may be initiated by the council or commission on its own motion. The approval standards in section 18.106.030 shall apply. Provided, however, that in the case of annexation pursuant to section 18.106.030.4 (current or probable public health hazard due to lack of full City sanitary sewer or water services) or section 18.106.030.6 (the lot or lots proposed for annexation are an "island" completely surrounded by lands within the city limits), the approval standards in section 18.106.030.E, F and G shall not apply. (ORD 2792, 1997)

SECTION 18.106.030 Approval Standards.

An annexation may be approved if the proposed request for annexation conforms, or can be made to conform through the imposition of conditions, with the following approval criteria:

- A. The land is within the City's Urban Growth Boundary.

- B. The proposed zoning for the annexed area is in conformance with the designation indicated on the Comprehensive Plan Map, and the project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.
- C. The land is currently contiguous with the present City limits.
- D. Adequate City facilities for the provision of water to the site as determined by the Public Works Department; the transport of sewage from the site to the waste water treatment plant as determined by the Public Works Department; the provision of electricity to the site as determined by the Electric Department; urban storm drainage as determined by the Public Works Department can and will be provided to and through the subject property. Unless the City has declared a moratorium based upon a shortage of water, sewer, or electricity, it is recognized that adequate capacity exists system-wide for these facilities.
- E. Adequate transportation can and will be provided to and through the subject property. For the purposes of this section "adequate transportation" for annexations consists of vehicular, bicycle, pedestrian and transit transportation meeting the following standards:
 - 1. For vehicular transportation a 20' wide paved access exists, or can and will be constructed, along the full frontage of the project site to the nearest fully improved collector or arterial street. All streets adjacent to the annexed area shall be improved, at a minimum, to a half-street standard with a minimum 20' driving surface. The City may, after assessing the impact of the development, require the full improvement of streets adjacent to the annexed area. All streets located within annexed areas shall be fully improved to city standards. Where future street dedications are indicated on the City's Street Dedication Map or required by the City, provisions shall be made for the dedication and improvement of these streets and included with the application for annexation.
 - 2. For bicycle transportation safe and accessible bicycle facilities exist, or can and will be constructed. Should the annexation be adjacent to an arterial street, bike lanes shall be provided on or adjacent to the arterial street. Likely bicycle destinations from the project site shall be determined and safe and accessible bicycle facilities serving those destinations shall be indicated.
 - 3. For pedestrian transportation safe and accessible pedestrian facilities exist, or can and will be constructed. Full sidewalk improvements shall be provided on one side adjacent to the annexation for all streets adjacent to the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the project site is within a quarter of a mile of an existing sidewalk system, the sidewalks from the project site shall be constructed to extend and connect to the existing system. Likely pedestrian destinations from the project site shall be determined and the safe and accessible pedestrian facilities serving those destinations shall be indicated.
 - 4. For transit transportation, should transit service be available to the site, or be likely to be extended to the site in the future based on information from the local public transit provider, provisions shall be made for the construction of adequate transit facilities, such as bus shelters and bus turn-out lanes. All required transportation improvements shall be constructed and installed prior to the issuance of a certificate of occupancy for any new structures on the annexed property.



F. For all residential annexations, a plan shall be provided demonstrating that the development of the entire property will ultimately occur at a minimum density of 90% of the base density for the zone, unless reductions in the total number of units is necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The owner or owners of the property shall sign an agreement, to be recorded with the county clerk after approval of the annexation, ensuring that future development will occur in accord with the minimum density indicated in the development plan. For purposes of computing maximum density, portions of the annexed area containing undevelopable areas such as wetlands, floodplain corridor lands, or slopes greater than 35%, shall not be included.

G. For all annexations with a density or potential density of four residential units or greater and involving residential zoned lands, or commercial, employment or industrial lands with a Residential Overlay (R-Overlay):

- ~~1. 35% of the base density to qualifying buyers or renters with incomes at or below 120% of median income; or~~
- ~~2. 25% of the base density to qualifying buyers or renters with incomes at or below 100% of median income; or~~
- ~~3. 20% of the base density to qualifying buyers or renters with incomes at or below 80% of median income; or~~
- ~~4. 15% of the base density to qualifying buyers or renters with incomes at or below 60% of median income; or~~
- ~~5. Title to a sufficient amount of buildable land for development is transferred to a non-profit (IRC 501(3)(c)) affordable housing developer or comparable Development Corporation for the purpose of complying with subsection 2 above. The land shall be located within the project and all needed public facilities shall be extended to the area or areas proposed for transfer. Ownership of the land shall be transferred to the affordable housing developer or Development Corporation prior to commencement of the project.~~

1) The total number of affordable units provided to qualifying buyers, or to qualifying renters, shall be equal to or exceed 25% of the base density as calculated using the unit equivalency values set forth herein:

- a. Ownership units restricted to households earning at or below 120% the area median income shall have an equivalency value of 0.75 unit**
- b. Ownership units restricted to households earning at or below 100% the area median income shall have an equivalency value of 1.0 unit.**
- c. Ownership or rental units restricted to households earning at or below 80% the area median income shall have an equivalency value of 1.25 unit.**
- d. Ownership or rental units restricted to households earning at or below 60% the area median income shall have an equivalency value of 1.5 unit, or;**

2) As alternative to providing affordable units per section 18.106.030(G)(1) the applicant may provide Title to a sufficient amount of buildable land for development through transfer to a non-profit (IRC 501(3)(c)) affordable housing developer or public corporation created under ORS 456.055 to 456.235 for the purpose of complying with subsection 18.106.030(G)(1)(b).



- a. The land to be transferred shall be located within the project meeting the standards set forth in 18.106.030(G)4, 18.106.030(G)5 and 18.106.030(G)6
 - b. All needed public facilities shall be extended to the area or areas proposed for transfer.
 - c. Prior to commencement of the project, Title to the land shall be transferred to the City, an affordable housing developer which must either be a unit of government, a non –profit 501(C)(3) organization, or public corporation created under ORS 456.055 to 456.235,
 - d. The land to be transferred shall be deed restricted to comply with Ashland’s affordable housing program requirements.
- 3) The affordable units shall be comparable in bedroom mix and housing type with the market rate units in the development.
- a. The minimum square footage of each affordable unit shall comply with the minimum required floor based as set forth in Table 1.

Table 1

<u>Unit Type</u>	<u>Minimum Required Unit Floor Area (Square Feet)</u>
<u>Studio</u>	<u>350</u>
<u>1 Bedroom</u>	<u>500</u>
<u>2 Bedroom</u>	<u>800</u>
<u>3 Bedroom</u>	<u>1,000</u>
<u>4 Bedroom</u>	<u>1,250</u>

- b. The required on-site affordable units shall be comprised of the different unit types in the same proportion as the market dwelling units within the development.

4) A development schedule shall be provided that demonstrates that that the Affordable Housing Units per 18.106.030(G) shall be developed, and made available for occupancy, as follows:

- a. That 50% of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50% of the market rate units.
- b. Prior to issuance of a building permit for the final 10% of the market rate units, the final 50% of the affordable units shall have been issued certificates of occupancy.

5) That affordable housing units shall be distributed throughout the project and shall be constructed using comparable building materials and including equivalent amenities as the market rate units.

H. Exceptions to the requirements of 18.106.030.G(2), 18.106.030.G(3), 18.106.030.G(4), and/or 18.106.030G(5) may be approved by the City Council upon consideration of one or more of the following:

- 1) That an alternative land dedication as proposed would accomplish



- additional benefits for the City, consistent with the purposes of this chapter, than would development meeting the on-site dedication requirement of 18.106.030(G)2, or;**
- 2) That an alternative mix of housing types not meeting the requirements of 18.106.030.G(3)(b) would accomplish additional benefits to the City consistent with this chapter, than would the development providing a proportional mix of unit types.**
 - 3) That the alternative phasing proposal not meeting 18.106.030.G(4) provided by the applicant provides adequate assurance that the affordable housing units will be provided in a timely fashion, or;**
 - 4) That the materials and amenities applied to the affordable units within the development, that are not equivalent to the market rate units per 18.106.030.G(5), are necessary due to local, State, or Federal Affordable Housing standards or financing limitations, or;**
 - 5) That the distribution of affordable units within the development not meeting 18.106.030.G(5) is necessary for development of an affordable housing project that provides onsite staff with supportive services or;**
 - 6) That the distribution of affordable units within the development as proposed would accomplish additional benefits for the city, consistent with the purposes of this chapter, than would development meeting the distribution requirement of 18.106.030.G(5)**

The total number of affordable units described in this section G shall be determined by rounding down fractional answers to the nearest whole unit. A deed restriction, or similar legal instrument, shall be used to guarantee compliance with affordable criteria for a period of not less than 60 years. Properties providing affordable units as part of the annexation process shall qualify for a maximum density bonus of 25 percent.

H.1. One or more of the following standards are met:

1. The proposed area for annexation is to be residentially zoned, and there is less than a five-year supply of vacant and redevelopable land in the proposed land use classification within the current city limits. "Redevelopable land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the likelihood that existing development will be converted to more intensive residential uses during the planning period. The five-year supply shall be determined from vacant and redevelopable land inventories and by the methodology for land need projections from the Housing Element of the Comprehensive Plan; or
2. The proposed lot or lots will be zoned E-1 or C-1 under the Comprehensive Plan, and that the applicant will obtain Site Review approval for an outright permitted use, or special permitted use concurrent with the annexation request; or
3. A current or probable public health hazard exists due to lack of full City sanitary sewer or water services; or
4. Existing development in the proposed annexation has inadequate water or sanitary sewer service; or the service will become inadequate within one year; or
5. The area proposed for annexation has existing City of Ashland water or sanitary sewer service extended, connected, and in use, and a signed "consent to annexation" agreement has been filed and accepted by the City of Ashland; or
6. The lot or lots proposed for annexation are an "island" completely surrounded by lands within the city limits. (ORD 2792, 1997)

(Ord 2895, Amended, 04/15/2003)



SECTION 18.106.040 Boundaries.

When an annexation is initiated by a private individual, the Staff Advisor may include other parcels of property in the proposed annexation to make a boundary extension more logical and to avoid parcels of land which are not incorporated but are partially or wholly surrounded by the City of Ashland. The Staff Advisor, in a report to the Commission and Council, shall justify the inclusion of any parcels other than the parcel for which the petition is filed. The purpose of this section is to permit the Planning Commission and Council to make annexations extending the City's boundaries more logical and orderly. (ORD 2792, 1997)

SECTION 18.106.050 Statutory procedure.

The applicant for the annexation shall also declare which procedure under ORS Chapter 222 the applicant proposes that the Council use, and supply evidence that the approval through this procedure is likely. (ORD 2792, 1997)



Excerpts from recent Housing and Planning Commission Meeting minutes relating to the proposed Annexation and Zone Change Ordinance changes.

ASHLAND PLANNING COMMISSION SPECIAL MEETING MINUTES

June 24, 2008

Ashland Land Use Ordinance – Annexation and Zone Change Amendments

Senior Planner Brandon Goldman introduced Housing Commissioners Regina Ayers and Aaron Benjamin and invited them to join the Planning Commission in this discussion.

Mr. Goldman presented the staff report and stated the purpose of the proposed annexation and zone change amendments are to address the issues related to affordable housing. He provided the following timeline for this process: 1) legal review of the proposed ordinance will occur in June, 2) the Housing Commission will review the ordinance in July, 3) in August, the Planning Commission will review the ordinance and it will go before the City Council during their Study Session, 4) the Council will conduct first reading in September, and 5) the ordinance should be adopted by October.

Mr. Goldman noted this is the first time the Commission has seen the changes in code format and stated it would be beneficial if the Commission could provide input on the following areas: 1) the cash in lieu of fees provision, 2) the equivalency value concept, and 3) the construction standards and comparable unit size.

Cash in Lieu of Fees

Mr. Goldman provided a brief overview and stated staff has some concerns and would like direction from the Commission. Dawkins stated he is familiar with this concept and shared his concerns with this type of provision. Mr. Goldman clarified the ad hoc committee agreed to drop this language, but staff needs to know if the entire Commission feels the same. The majority of the group recommended eliminating this language.

Equivalency Value

Mr. Goldman provided a brief overview and stated the primary question is whether affordable rental housing units targeted to households earning 80% the area median income should qualify as meeting the standard. Council Liaison Cate Hartzell shared a recent conversation she had with the regional HUD director, who felt that as a result of the current housing market, there will be increased pressure on rentals. Comment was made that if this provision encourages rentals, they should include it. Alternate comment was made that Ashland is lacking diversity in ownership units and affordable ownership units would be more beneficial than near market rate rentals. Stromberg conducted a straw vote and the majority of the Commission favored this provision.

Comparable Unit Size

Mr. Goldman explained the minimum one-bedroom unit size set by the State is 600 sq. ft.; however, the City's ordinance allows for a reduced density calculation for units that are 500 sq. ft. or less as well as a reduced parking requirement for units 500 sq. ft. or less. As such, staff believes that changing the one-bedroom minimum unit floor area from 600 sq. ft. to 500 sq. ft. has merit and should be considered for inclusion in the final ordinance. Mr. Goldman clarified if a developer submitted an application for units 500 sq. ft. in size, they would be ineligible for state funding. Several comments were made voicing support for retaining the 500 minimum sq. ft. size for one-bedroom units.

Comment was made questioning how to ensure the mix of units that are built as affordable echo the market rate housing. Suggestion was made for comparability between affordable and market rate exterior and interior amenities.

ASHLAND HOUSING COMMISSION MINUTES

April 24, 2008

"The proposed changes are also intended to establish a means of insuring the units are being built in a timely manner, that the units are commensurate with the full development in terms of unit size, distribution of the affordable housing units, target percentages of affordability, and identify the potential for cash in-lieu fees and land dedication.

Commissioners discussed the proposed changes in order to make recommendations to the Ad Hoc Committee to look at incorporating these changes.

Regarding construction standards: Voisin/ Billin m/s that the Commission recommend the minimum unit size be 375 square feet. The motion passed unanimously.

Regarding percentage of affordability: Hardesty/Billin m/s that the Housing Commission revise the requirements in the *Percentage of Affordability* section such that in item 'c' the words ***or rental*** would be deleted and in item 'd' the number 80% be changed to **60%** and that they make these recommendations on the part of the Commission to the Ad Hoc committee. The motion passed unanimously."

ASHLAND HOUSING COMMISSION MINUTES

February 28, 2008

"In 2006 the Housing Commission looked at the ordinance to see what was working with it and what wasn't. Goldman reviewed the Commission Communication dated March 27, 2007. The Housing Commission in March of 2007 had recommended in favor of these ordinance changes going forward. Given the lapse of time Bill Molnar felt that instead of taking a draft ordinance to the Planning Commission they should have an Ad Hoc meeting structure where some Housing Commissioners and Planning Commissioners get together in April and go over what was being presented. Then they would come back to the Housing Meeting at the April 24th meeting with draft language that has already had legal review. With the Commissions recommendations they would either modify the ordinance or send out a notice to the affected parties in advance of having the draft ordinance sent to a Planning Commission study session in June. It would then go to a hearing before the Housing Commission in July and to the Planning Commission and City Council in August for first reading of it in September. Assuming that the City Council at first reading wanted to go forward with the ordinance the second reading would be in October and 30 days after that it would be approved as the new law of the land. All future annexations after that would be subject to it.

Goldman explained that Measure 49 was a response to Measure 37 and explained how it could affect the City and Housing densities.

After discussing these previously identified changes to the Annexation and Zone Change Ordinances, and specifically the matrix describing affordable housing mixes, Hardesty made the following motion "We recommend to the joint Ad Hoc Housing Commission /Planning Commission members that the words *or rental* be deleted from items C on the subject of percentage of affordability." Billin seconded it. Voice vote: approved.

It was decided that the members on the Land Use Committee will be on the Ad Hoc committee. "

- **Section 108 Loans**
CDBG financing

Ashland Housing Commission Packet
July 24, 2008

Chapter 8: Economic Development & Section 108

Jobs are provided predominantly for residents of public or Indian housing units;

Jobs are provided predominantly for homeless persons;

Jobs are provided predominantly for low-skilled, LMI persons and the business agrees to provide clear opportunities for promotion and economic advancement (e.g., provision of training);

Jobs are provided predominantly for persons residing in a Census tract with at least 20 percent of the residents in poverty;

Assistance is provided to businesses that operate in a Census tract with at least 20 percent of the residents in poverty;

The activity stabilizes or revitalizes a neighborhood that has at least 70 percent low- and moderate-income residents;

Assistance is provided to a CDFI that serves a predominantly LMI area;

Assistance is provided to a CBDO that serves a neighborhood that has at least 70 percent LMI residents;

Provides services or creates/retains jobs in a HUD-approved Neighborhood Revitalization Strategy Area; or

With prior HUD approval, represents some other innovative approach with substantial benefits to LMI residents.

8.4 Section 108 Loan Guarantee Program

Section 108 is a significant resource that can be used to create community and economic development projects. This section summarizes the Section 108 Program.

Key Topics in This Section: Program Parameters, The Loan Process

Players and Their Roles, Typical Uses of Section 108, Advantages of Using Section 108

Regulatory/Statutory Citations: 24 CFR 570, Subpart M –Loan Guarantees

Other Reference Materials on This Topic: Guide to National Objectives and Eligible Activities for Entitlement Communities, Chapter 2: Categories of Eligible Activities, Appendix F: Making the Most of your CDBG Resources, Appendix G: Selling or Securitizing CDBG-funded Loans Using the Section 108 Program and Other Secondary Markets, CPD Notice 01-10

The Section 108 Program is a loan guarantee program, which enables CDBG grantees to borrow up to five times their annual entitlement grant.

Entitlement communities pledge future CDBG funds as security for the loan. Non-entitlement communities may participate if their State is willing to provide the pledge of future CDBG funds.

HUD acts as the guarantor of a 108 loan made from private market funds, promising investors that the loan will be repaid.

Being able to borrow large sums of money helps grantees undertake large scale, capital-intensive projects and provides a mechanism for grantees to extend the impact of their CDBG Program.

Chapter 8: Economic Development & Section 108

This chapter provides an overview of Section 108 basics and its advantages.

8.4.1 Advantages to Using Section 108

Grantees take on the risks of borrowing Section 108 funds because the program provides the following significant advantages:

Potential leverage—A community has access to funds totaling up to five times its annual CDBG entitlement while retaining the use of its entitlement.

Avoid referendum—Since Section 108 borrowing is not ordinarily a general obligation, the community can avoid a referendum and the Section 108 indebtedness does not affect the debt limit of the community.

Accelerate CDBG activities—Instead of “paying as you go,” communities can complete needed projects now by utilizing Section 108.

Spread Costs Over Time—The costs for projects can be spread out over long periods of time—the maximum loan term is 20 years. Long-term repayment schedules lessen the yearly debt burden.

Avoid private benefit restrictions—Most state constitutions prohibit the use of tax-generated funds to benefit private interests. Since Section 108 generally encumbers federal entitlements and not tax revenue, communities can avoid this restriction.

Access funds at an AAA rate—Despite the premium over Treasuries associated with Section 108 debt; the rate is approximately equal to what AAA-rated publicly held companies pay for its debt. Consequently, a third party borrower, who is typically non-rated and privately held, can access financing at significantly lower rates than would be otherwise be available to small businesses.

Access long-term funds at a fixed rate—The fixed rate eliminates the risk of future rate changes to the community. Thus, the community is able to make long-term plans with certainty about its future obligations.

These advantages are substantial enough that many communities have accepted the risks of Section 108 borrowing and successfully expanded their economic opportunities.

8.4.2 Program Parameters

The following basic parameters apply to the Section 108 program:

Maximum loan amount—up to five times a community's annual CDBG entitlement.

Loan Terms—interest rates and repayment schedules can vary on a case-by-case basis, but the maximum loan term is 20 years.

Eligible Applicants—Entitlement communities, non-entitlement communities that are assisted by State grantees, and non-entitlement communities eligible under the Small Cities Program.

Eligible Activities—Eligible Section 108 activities are different than those under the regular CDBG program. Section 108 can fund the following activities (NOTE: consult the regulations for a more complete description of these requirements):

Acquisition;

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Rehabilitation of publicly-owned property;

Clearance, demolition, removal and site preparation related to acquisition or rehabilitation;

Economic development activities;

Housing rehabilitation;

Payment of issuance and finance costs associated with 108 loans;

Relocation assistance necessitated by a 108 project;

Acquisition, construction, reconstruction, rehabilitation or installation of public facilities;

Site preparation, including construction, reconstruction, and installation of public and other site improvements, facilities and utilities (see the regulations for additional requirements).

Program Requirements—With its origin derived from CDBG legislation, Section 108 is subject to CDBG requirements. The following criteria are the same for both CDBG and Section 108:

Compliance with national objectives;

Davis-Bacon labor standards;

Environmental review requirements;

Underwriting guidelines;

Compliance with the primary objective (i.e., 70 percent of expenditures benefit LMI persons);

Public benefit standards; and

CDBG certifications.

Ineligible Activities—Several activities that are eligible under CDBG are not eligible under Section 108, including public services, payment of the non-Federal share of other Federal grant programs, and long-term planning.

8.4.3 Typical Uses of Section 108

Although CDBG is more inclusive, the activities that are eligible under Section 108 are quite broad. Communities can finance: operating costs for businesses and developers; micro loan funds and Fortune 500 companies; machinery, equipment and working capital; and leasehold improvements, furniture and fixtures. While some of these categories may carry burdens relating to additional security, all are eligible.

Examples of completed Section 108 projects include:

Industrial expansion;

Capitalization of a revolving loan fund;

Construction of a neighborhood shopping center;

Expansion of an accounting practice;

Construction of a warehouse facility and industrial park;

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Funding a business incubator ;
Creation of a retail business ;
Constructing an office building; and
Housing rehabilitation carried out by a nonprofit organization.

8.4.4 Players and Their Roles

The typical Section 108 transaction has the following players:

Eligible Community—The borrowing community incurs the ultimate risk of the Section 108 debt. If the community manages risk prudently and transfers the risk and cost to the third parties, the community can accelerate CDBG activities and achieve tremendous leverage. To secure Section 108 debt, the community must pledge future CDBG entitlements, program income, and provide additional security as HUD deems necessary.

HUD—HUD reviews the community's application to see if the proposed activities comply with Section 108 regulations and are underwritten in a prudent manner. If the application is approved, HUD provides a 100 percent full faith and credit guarantee, which is the cornerstone of the program.

Underwriter—The underwriter is a consortium of national brokerages, which sell the Section 108 notes to private investors. The underwriters receive a fee for their services. HUD competitively procures the underwriting services on a periodic basis.

Fiscal Agent—The Fiscal Agent manages Level #1 transactions. It acts as a trustee for the investors and manages disbursements to communities and repayments from the project that are conveyed back to the investors.

Private Investors—Private investors fall into two major groups: (1) individuals; or (2) institutions. The investors are buying paper, which has fixed rates and has nominal credit risk (due to the full faith and credit guarantee). The Section 108 notes are roughly equivalent to Treasury issues but carry a slight premium to Treasuries, ranging from one eighth of a percent in the shorter maturities to six tenths of a percent in the longer terms. To date, no investor has ever incurred a loss from buying a Section 108 note.

Third Party Borrowers—If the community chooses, it can re-loan Section 108 proceeds to third party borrowers. The third party borrowers accept some portion of the risk and cost from the community. Section 108 can provide such borrowers with fixed-rate, long-term and reasonably priced financing that may be difficult to obtain conventionally.

8.4.5 The Loan Process

The basic steps of a typical Section 108 transaction work as follows:

The grantee applies to HUD for a Section 108 Loan Guarantee.

The grantee pledges a portion of its future CDBG entitlement grants plus any needed additional security to ensure that the notes will be repaid in the event of a project default.

Notes are sold to investors in a public offering to raise funds for the grantee's approved project.

The community uses the funds raised by the sale of the notes to undertake the approved project.

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The loan repayments are used to repay investors. Funds to repay the note can come from future CDBG funds, program income generated by the project, or other revenue sources that the grantee has available.

Depending on the type of project that is financed, grantees may have from one to twenty years to repay the Section 108 notes.

In summary, Section 108 consists of two levels:

Level # 1—Eligible communities borrow money from private investors (which the financial underwriters find).

Level # 2—Communities either carry out activities, which are eligible under Section 108 *or*, alternatively, re-loan the funds to third parties (entrepreneurs, developers, nonprofits, etc.) who undertake eligible activities.

The community assumes the ultimate risk of paying back the Section 108 notes.

The notes may be repaid with future CDBG grants; or

The community may transfer the risk and cost (interest) by lending Section 108 proceeds to third party borrowers. If the third party repays this loan the community may never have to dip into its CDBG funds to repay the notes. However, if the third party defaults, the community must repay the loan.

To ensure the marketability of Section 108 notes, HUD provides a 100 percent full faith and credit guarantee to the private investors who purchase the notes at the public offering.

To comply with the Credit Reform Act of 1992, HUD cannot rely solely on the pledge of future CDBG entitlement funds to repay the Section 108 loan. Accordingly, the community must prove to HUD that either:

The project being financed with Section 108 funds has sufficient collateral and satisfies sound underwriting; or

The community pledges other assets that provide additional security beyond CDBG funds to bridge any repayment shortfalls.