

# City of Bloomington Common Council

# <u>Legislative Packet – Addendum</u>

(Issued on Tuesday, 02 March 2021)

Wednesday, 03 March 2021 6:30 pm – Regular Session

For a schedule of upcoming meetings of the Council and the City's boards and commissions, please consult the City's <u>Calendar</u>.

#### **MEMORANDUM**

To: Members of the Bloomington Common Council

From: Matt Flaherty, Isabel Piedmont-Smith, Kate Rosenbarger

Subject: Ordinance 21-06
Date: March 2, 2021

In recent months, there has been renewed attention in our community on people experiencing homelessness who are camping in public spaces. Ideally, every person in our community would have safe and accessible housing. Nobody thinks it is ideal for people to sleep in tents, especially during the winter. However, the reality is that some people temporarily lack housing and may be unable to go to emergency shelters. Ordinance 21-06 focuses on finding a short-term solution for these people by ensuring a legal place for them to sleep if they have no other options.

This ordinance proposes adding a new chapter, entitled "Protections for People Experiencing Homelessness," to Title 2 of Bloomington Municipal Code. The ordinance addresses several areas of concern related to unhoused community members, as described below.

#### **BACKGROUND**

This ordinance is modeled after a 2016 ordinance passed with bipartisan support by the Indianapolis City-Council Council.<sup>1</sup> Over the past several months, we have developed the ordinance while in direct consultation with people experiencing homelessness, the Bloomington Homeless Coalition, area homelessness service providers, and city staff. The Region 10 Continuum of Care Board,<sup>2</sup> also known as the South Central Housing Network, considered a draft of the ordinance at a board meeting, voting to support the ordinance. We believe that people with lived experience of homelessness and the professionals working in homelessness services are best suited to inform the issues covered by Ordinance 21-06.

# CONTENT OF ORDINANCE

First, the ordinance sets procedures the city must follow if it displaces people experiencing homelessness from a public park, as it did in the Seminary Park area in December 2020 and January 2021. More specifically, the ordinance specifies the following:

- a uniform approach to how the city provides notice prior to displacing any unhoused person from public parks, including communication with the Bloomington Common Council and the Region 10 Continuum of Care Board;
- the protection and storage of personal property of any displaced person with limits as described in section 2.87.030(f); and
- the need for transitional housing or permanent housing to be available and offered to unhoused persons prior to displacement.

<sup>1</sup> Title I, Chapter 231, Article V of Indianapolis City-County Code. <a href="https://library.municode.com/in/indianapolis-marion-county/codes/code">https://library.municode.com/in/indianapolis-marion-county/codes/code</a> of ordinances?nodeId=TITIORAD CH231DEMEDE ARTVPRHO

This is the board sanctioned by the Indiana Housing and Community Development Authority for our region, representing area sheltering agencies that comply with IHCDA standards. <a href="https://www.in.gov/ihcda/4147.htm">https://www.in.gov/ihcda/4147.htm</a>

Second, the ordinance addresses a simple, if challenging, question that the sponsors believe it is essential to answer. Specifically, when a person experiencing homelessness is unable to go to a shelter (e.g., if they have been prohibited or if a shelter is full), where are they legally allowed to spend the night? The longstanding de facto answer seems to be nowhere at all, even if in practice the government may at times look the other way while people sleep in parks or in the woods.

We believe that as a matter of human rights and dignity, unhoused residents need a designated area of public space where they are allowed to sleep if unable or unwilling to go to an emergency shelter. This is something other cities provide, and there are at least two possible approaches:

- One approach, which Indianapolis has taken, is to allow unhoused persons to legally sleep anywhere in public space, with some exceptions. <u>Ordinance 21-06</u> takes a similar overarching approach, but further limits this space to public parks, with some exceptions.
- Another possible approach is to designate specific locations of public property where people experiencing homelessness are allowed to sleep. Section 2.87.030(g) would allow the city to designate such an area or areas, thus limiting where Chapter 2.87 would apply. Any designated space must have access to restrooms and be within one mile of an organization providing prepared meals for people experiencing homelessness.

# LONGER-TERM SOLUTIONS

We also recognize the importance of working towards better long-term solutions to homelessness. We welcome the renewed focus in the community on implementing evidence-based solutions, such as housing first policies. Specifically, a Housing Insecurity group, headed by Tina Peterson from the Community Foundation of Bloomington & Monroe County and Efrat Feferman from the United Way of Monroe County, is leading community efforts to make homelessness rare, brief, and non-repeating. However, this group has not been tasked with the questions raised above, and the group leaders do not think the group is well suited to address them.

People experiencing homelessness are among the most vulnerable of our Bloomington neighbors. We need a whole-community approach to addressing all aspects of homelessness, including the tragic situation where someone has no bed in which to sleep for the night.

# Bloomington Common Council,

The Bloomington Homeless Coalition is in full support of Ordinance 21-06. This is a very encouraging Ordinance, and its passing would be beneficial to all residents of Bloomington. In addition to giving our unhoused residents of Bloomington dignity and space, this proposal would ease the trials and tribulations of said populace, give them the ability and chance to make moves to improve their lives instead of constantly worrying about what the City of Bloomington will do, and allow them to breath air as a free people. In addition to this, it would free up City resources previously used to fight against this populace and allow us the time to come together and cooperate on a lasting solution to Bloomington's unhoused issues.

Our members have fought painstakingly to prevent further death and destruction in regards to Bloomington's unhoused populace. This ordinance would aid us, along with other organizations, in several ways. It would provide a space where we would be able to find the most at-risk of our populace, whereas now we do not know where people are hiding to sleep. It would provide a clear path to be followed in the event of an eviction, whereas now the steps to do so are unclear. It would provide an alternative to those unhoused residents in such events as said evictions in the form of temporary or permanent housing to those evicted. And it would prevent the destruction of private belongings that always happen, intentional or otherwise, in the event of an eviction.

The board members of the Bloomington Homeless Coalition encourage the passing of this Ordinance. We would also like to thank the authors; Matt Flaherty, Kate Rosenbarger, and Isabel Piedmont-Smith, and anyone who votes to pass this much needed ordinance.

Bloomington Homeless Coalition Harry Collins Marc Teller Shelby Querry Tammie Clark-Meek Heather Rose Molly Stewart To the City of Bloomington Common Council:

By a majority vote of member agencies, the South Central Housing Network supports the proposed ordinance 21-06, "Protections for People Experiencing Homelessness." As the regional planning council for Region 10 of the Indiana Balance of State Continuum of Care, the purpose of the South Central Housing Network is to provide, coordinate, and advocate for the best possible housing resources and supportive services for those in need in South Central Indiana.

As providers of shelter and supportive services for people experiencing homelessness in Monroe and surrounding counties, we know that housing resources for very low income and extremely low income households are far too few. For that reason, many of our impoverished neighbors find themselves without homes. When that happens, it is essential for the character of our community that we treat those households with dignity and respect.

Currently, people frequently sleep outdoors on both public and private property, which can create liability and expense for property owners, inconvenience community members, and foster uncertainty and anxiety for people experiencing homelessness. This ordinance allows our community to decriminalize sleeping outdoors for people to whom a home is not available, which protects the people experiencing homelessness, local landowners, and our community in general by outlining the ways in which sleeping outdoors can be done lawfully.

By designating a place for people to sleep outdoors lawfully when they do not have a legal residence, the city can mitigate the effects on local private property owners and preserve other spaces for their intended use while also helping promote the safety of people experiencing homelessness.

Additionally, provisions for the preservation of property and notice of eviction are essential protections for this vulnerable population.

We thank you for your dedicated work for our community and urge you to vote in favor of this ordinance.

Sincerely,

Emily Pike, Chair

Emily Pike

South Central Housing Network

#### ORDINANCE 21-06 - FISCAL IMPACT

Some may find it difficult to conceptualize the fiscal impact of the ordinance for a few reasons:

- 1. The ordinance primarily specifies a negative duty. That is, it describes when the city cannot act, for instance when there is inadequate transitional or permanent housing available for unhoused residents sleeping outside (subject to various exceptions). A *lack* of action does not itself entail a fiscal impact.
- 2. There are no sections of the ordinance which will *automatically* lead to a fiscal impact. Rather, some sections specify how the city must act *if* it takes a certain action, but none of these actions are compelled by the ordinance. Such possible future actions would likely be subject to fiscal review at that time.
- 3. It is tempting to point to costs associated with homelessness, generally, as a fiscal impact of this ordinance. However, the ordinance does not cause homelessness, and there has been no evidence or data presented to suggest it will significantly change the number of people experiencing homelessness in Bloomington. In other words, the city already incurs costs associated with homelessness, such as park clean-up and police calls, and those costs aren't caused by this ordinance.

Another way to consider the possible fiscal impact of the ordinance is to look at each subsection and discuss what costs are required or might occur. As noted above, no subsection of this ordinance automatically creates a fiscal impact.

# • Section 030(a).

- O This subsection specifies the notice procedures the city must follow if it is going to act to displace persons experiencing homelessness from a place they are allowed to sleep under Chapter 2.87. First, there is no guarantee the city will displace people, since subsection (c) requires the availability of housing prior to displacement. Even if the city acts to displace unhoused people, the notice requirements have a minimal fiscal impact. They include a "conspicuous written notice near the camp," a reasonable effort of verbal notice, and communication with the Bloomington Common Council and the Region 10 Continuum of Care Board (for instance, via email).
- In summary, there is no guaranteed fiscal impact of this subsection, and city actions pursuant to this subsection likely entail minimal fiscal impact.

# • Section 030(b).

This subsection specifies that if the city acts to displace persons experiencing homelessness, it must collaborate with the Region 10 Continuum of Care Board to ensure that all individuals are offered transitional or permanent housing and wraparound services for which they are eligible. As with section 030(a), there is no guarantee the city will be acting to displace unhoused people. If the city does so, the collaboration with the Continuum of Care Board entails minimal fiscal impact.

Coordinating entry of unhoused people into transitional and permanent housing is the current function of the board, and email communication or meetings with the board will allow the city to satisfy the requirements of this subsection.

o In summary, there is no guaranteed fiscal impact of this subsection, and any city actions pursuant to this subsection likely entail minimal fiscal impact.

# • Section 030(c).

- O This subsection specifies that the city *may* proceed with closing a camp if available housing has been offered to all persons living in the camp. In the event of closing a camp, it is likely that the city will incur some cleanup costs. These costs are in the range of a few thousand dollars, according to statements made by Paula McDevitt, Director of the Parks and Recreation Department, in past public meetings. Clean-up costs are already incurred and would likely continue to be incurred regardless of whether this ordinance is adopted, as emergency shelters are closed mid-day, and people experiencing homelessnessare allowed to use city parks while parks are open, spending more time there than housed people because they have nowhere else to go.
- o In summary, there is no guaranteed fiscal impact of this subsection. City actions pursuant to this subsection, if taken, will likely entail a fiscal impact anywhere between a few hundred dollars and tens of thousands of dollars, depending on the size and number of the camps cleared.

# • Section 030(d).

- This subsection specifies that the city must wait until sufficient housing is available to persons experiencing homelessness prior to displacing them, except in the case of an emergency. While the city may be motivated to ensure enough housing is available, this ordinance does not create a right to housing nor obligate the city to provide additional housing.
- In summary, this subsection entails no fiscal impact.

# • Section 030(e).

- O This subsection specifies that a 15-day notice provided pursuant to subsection 030(a) comes and goes, an additional 48 hours of notice must be given prior to action being taken to displace people. As described above for section 030(a), there is no guarantee the city will act to displace unhoused people. If the city does so, the costs of this subsection are minimal.
- In summary, there is no guaranteed fiscal impact of this subsection, and any city actions pursuant to this subsection likely entail minimal fiscal impact.

# • Section 030(f).

This subsection specifies how the city must safely store the property of displaced persons experiencing homelessness, to the extent reasonable, for up to 60 days.
 As with other subsections described above, there is no guarantee the city will act to displace unhoused people. First, people to be displaced should be moving into

transitional or permanent housing and would thus likely take their belongings with them. If, pursuant to section 030(c), the city is displacing an unhoused person who has been offered housing and refuses to accept it, the city may need to store property as described in this subsection. However, this is something the city has already done when displacing people in the past, including in December 2020 and January 2021. As such, to the extent costs are incurred from storing property, these are costs the city has already taken on in the past. They are not new. Additionally, since persons experiencing homelessness should have access to housing prior to displacement, it is not unreasonable to assume any costs associated with this subsection may be *less* than the costs the city has already incurred when taking action previously. These costs are in the range of a few thousand dollars, according to statements made by Paula McDevitt in past meetings.

o In summary, there is no guaranteed fiscal impact of this subsection, and any city actions pursuant to this subsection likely entail minimal fiscal impact.

# • Section 030(g).

This subsection specifies that the city may designate a limited area or areas of public property in which Chapter 2.87 would apply, provided there is adequate space for persons experiencing unsheltered homelessness, there is access to restrooms, and the area is within one mile of an organization providing prepared meals to unhoused people. As with all other subsections of this ordinance, this subsection does not compel or guarantee a particular city action. Rather, it specifies how the city must act if it chooses to designate an area. If the city decides to designate an area pursuant to section 030(g), such a choice could entail a wide range of costs depending on a variety of factors. At minimum, the provision of restrooms would likely entail some cost. At the low end of fiscal impact, this could mean providing and servicing portable toilets (estimated at \$1,520 for 4 weeks<sup>1</sup>). It could involve winterizing an existing city restroom facility, or it could mean constructing a new, winterized restroom facility. The city could even purchase new land in order to designate a suitable location, or provide funding for some level of additional staffing (or funding for a social service agency) to help manage the space. Any significant cost associated with these many options would likely be subject to a future appropriation ordinance. The city council would duly consider fiscal impact and relevant tradeoffs as part of that legislative process. However, again, this ordinance does not require the city to take action pursuant to this subsection.

<sup>&</sup>lt;sup>1</sup> Per <u>www.asapsiteservices.com</u> for two standard portable toilets with sink and service twice a week, delivery and administrative fee.

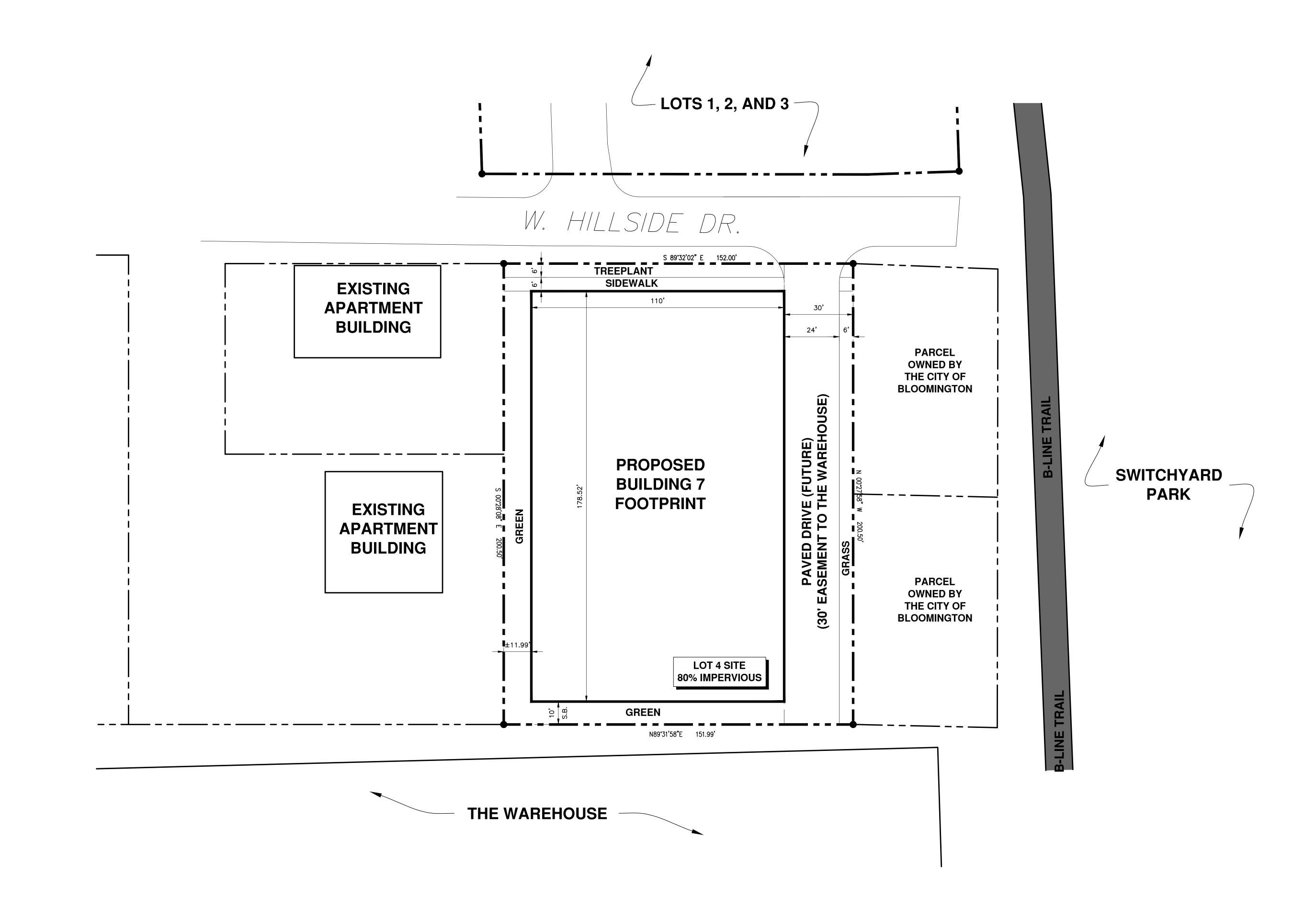
• In summary, there is no guaranteed fiscal impact of this subsection. Fiscal impacts from city actions pursuant to this subsection would likely be subject to future appropriation ordinances and review.

Summarizing the step-by-step analysis above, there are no guaranteed fiscal impacts of this ordinance. The *possible* fiscal impacts associated with city actions pursuant to sections 030(a) – (f) are minimal and mostly reflect costs the city already incurs. The possible fiscal impacts associated with city actions pursuant to section 030(g) could be more significant, but the ordinance does not require this approach and the fiscal impacts would be considered as part of future appropriations ordinances.

If the city administration believes <u>Ordinance 21-06</u> compels or guarantees significant fiscal impacts not described above, we request that the administration provide a detailed accounting of its assumptions and calculations.







NEW SCHEMATIC LOT LAYOUT - 2020G

PROJECT NAME: PROJECT LOCATION: DATE:

SWITCHYARD WEST HILLSIDE AND THE B-LINE FERUARY 22, 2021

DESIGN PHASE:

CONCEPT PLANNING

PROJECT LOCATION:

WEST HILLSIDE AND THE B-LINE
FERUARY 22, 2021

DRAWING SCALE:

1" = 20'-0"



