

**MINUTES**  
**Goshen Planning Commission**  
**April 2, 2024 at 5:30PM**  
**Goshen Community Building,**  
**244 Clark Street**

**Call to Order:** Tom Hennelly called the meeting to order at 6:06 PM.

**Roll Call:** Tom Hennelly, Lisa Skiles, Loren Shackelford, Scott Stokenbury, Liz Mashie  
• Micheal Thompson were present. James Gardner was absent.

**Approval of Agenda:** Motion made by Liz Mashie to approve the agenda. Seconded by Michael Thompson. All in favor. Yay (6) Opposed. (0). The motion carried.

**Approval of Minutes:** March 5, 2024. Motion by Liz Mashie to approve minutes as written. Seconded by Loren Shackelford. All in favor. Yay (6). Opposed (0). The motion carried.

**Planning Commission Business:**

- A. Request Change to Subdivision Regulations/Exemptions:** Lacie Lawson presented. After deliberation with Jeff Hawkins and Tim Conklin from the Northwest Arkansas Regional Planning Commission, as well as having many situations come about due to tandem lots, minor subdivisions, and now a new major subdivision being built right under our noses, I feel it's my responsibility to address the exemptions and requirements for subdivisions. My concerns are, when any land is split, it causes and creates a subdivision, minor or otherwise. Regardless of the present use of that property, any lot split insinuates the intent to sell, whether in the near or in the far future. The intent to sell is there. Regardless of when, there are no regulations protecting future land and homeowners. This includes deed requirements, health department letters, infrastructure requirements, utility requirements, and fire department approval. There is a major subdivision administratively approved in 2022 based on lot sizes of five acres or more. And now we have a subdivision with road and utilities. These lots went on the market yesterday, April 1st. And the future landowners and homeowners have no clue that that road is private and will not be maintained by the city. The roads have been built with no documentation, turned into the city proving safety and quality. The fire chief didn't sign off on them, and an engineer did not inspect them. The city had no clue what was being done within its city limits. We technically didn't even know if these lots would perk. And it's created potential useless pieces of property. Division of land doesn't mean that the land is able to be built on. It doesn't mean that there is adequate infrastructure, including water and electricity. And it doesn't mean that a fire apparatus can get in and out of the property. Our zoning regulations do not require any of this. And in turn, we are not looking out for the future safety of our citizens. In turn, we are not looking out for the future dependability of our infrastructure, nor are we appropriating responsibility to the correct persons or entities,

whether it be a POA or an improvement district. I'm asking that all lots, regardless of size, are subject to Goshen subdivision regulations, that we add health department letters be issued for all lots created to ensure that the land will perk for future septic and water usage, whether it's well water or water utility, that all proposed infrastructure come before the planning commission for a review process to ensure that all guidelines are met, and that any land divided, which insinuates future sale of intended lots, not be created without purpose. We need to stop the creation of useless pieces of land. We need to stop the creation of roads that are not regulated for upkeep and maintenance. We need to stop the loopholes that now take away even more water usage from other Goshen citizens. At the very least, an engineer needs to be required to inspect and submit a letter to the city of Goshen of inspection of infrastructure, and the Goshen Fire District needs to inspect and submit a letter of inspection. I'm asking that warranty deeds be filed with every lot split. If a warranty deed is not filed, then the assessor's office doesn't split the property on our access maps, and it's more difficult for the office to research properties in question. It's more difficult for future property owners to look up potential land when initiating the buying process as well. They can't see property tax values. They can't see where the property needs access roads, except for what the seller is telling them. It creates problems down the road for all future landowners. This needs to be added to our regulations so that it can be enforced moving forward. I propose that the exemptions be taken out of the subdivision regulations, and I propose that warranty deed requirements be added to them. Tom: Do you have any initial thoughts? Let's go to the public. Anybody in the public have a thought on this? Tom: The development that kind of lit the fuse on this is the one on the north side of 45 just before you get to the Knolls. And I signed off on the plat. Loren: Is that Chuck Brown's property? Liz: This came to us, didn't it? Tom: It came to us. And, according to the regulations, Brian says, that's a minor subdivision that can be administratively approved. Those are all 5 acres or less. Lacie: So, at the beginning of February, he came in and he turned in a lot split for that. It was like 20 acres to be split into 3 lots. That was approved. That was filed with Washington County. And the day after it was filed for Washington County, he brought the additional 70 acres in to be split up into 11 lots. So that parent tract was split twice within a month. Liz: How? Brian: It's exempt. Loren: Because of the size. Tom: It's exempt. And when you read through the subdivision regulation and you get down to that part where it says 5 acres or more, you just quit reading. Liz: And that's exactly what he did, he came in here, would you approve a subdivision like this? And that makes sense because his eyes lit up. Oh, they're exempt as long as they're 5 acres or more. Tom: So now let me just explain what we have now. What we have now is a subdivision. And it doesn't make any difference that the lots are 5 acres or more. We have a subdivision that has infrastructure, which has drainage, so we have no idea whether that road will support a fire engine. We have no idea whether those culverts are sized properly and they're not going to overtop the road and wipe everything. Lacie: I did have the fire chief inspect it, and the road is not wide enough. It doesn't meet the fire code. Tom: So, what I have seen over the course of my career is somebody brings

a piece of property that they want to subdivide. They present a preliminary plat to the planning commission. We've done this 1,000 times. They present a preliminary plat. The premise of the plat is voted on and approved. Yes, it complies with ours, or we ask for some tweaks to be made. And then a set of construction documents are generated. And I know that it's a bit different here for us because we don't take ownership of those streets, which is going to be a problem there. I'm just telling you. It's going to be a problem because at some point we must take ownership of these streets. But we review the construction documents and nothing else, just so I can look the fire marshal in the eyes or the reviewing engineer can look the fire marshal in the eyes and say, yeah, this thing is wide enough, stout enough to support your unit in the middle of a thunderstorm when you're out there trying to fight a lightning strike. And we can't do that right now. And the only threshold is that these lots are bigger than five acres. Brian: The road must. As it's written right now, the road must be adhered to. Tom: Right but we have no mechanism to enforce that other than building permits. Brian: I thought about this, Lacie and I had a lengthy conversation yesterday about all this, you said he's marketing the property to be sold. Lacie: Yes, so there's no easement, the property line could go to the edge of the road, and the road right now is marked that it's a public road. Brian: Well, regardless of that, though, I think we potentially could file for an injunction to prevent him from selling these parcels to the open market without that road meeting the requirements of our code. I think we do have that option available to us. Tom: And so, I'm curious, because I've been looking through them, and other than a reference to the fire code, I don't think we have, and the fire code requires a 26-foot-wide street. I'm entirely sure that that's correct. Brian: Whatever the fire code says, that's what it must be. Tom: But we have we don't have any criteria to judge that by other than the fire code. Brian: Correct. Lacie: I came upon this by chance. Nathan at Bloom & Associates was the one who was handling this. He's no longer working there. So, Sidney was going through the files that he had, and she called me. She was like, hey, Lacie, do you have a copy of this sign? By chance is how this fell into my lap. There may not be that by chance next time. And if that's the case, then there we're not going to have a chance of filing an injunction. Brian: As I say, if you weren't aware of that, and they sold all these parcels, and then somebody three months from now comes in to pull the building permit, that's the only opportunity where we would be able to regulate that. That property owner as you and I were talking. Is then going to have a claim against the developer, if we want to call him that, for not putting in an adequate road. Right now, through an injunction, we have an argument to prevent that from happening. Lacie: I am going to adjust the building permit, though, to ask for the road width in the front of the property. That's the only way that I can, like, regulate this situation. Lisa: What are the steps that we take in an injunction? Brian: File a lawsuit and ask the judge to prevent him from selling any of these parcels. Lisa: Who needs to make that decision? Brian: The counsel. Loren: All right, so are we talking about one specific issue and one specific developer, or are we talking about the ordinance and what tweaks need to be done to the ordinance? Brian: There are two parts of the conversation.

Lacie: So, the map that you have in front of you is another subdivision that is going in, that is just outside of our city limits in our planning area. Fortunately, these lots are less than five acres, but I brought it as just another example because we're responsible for subdivisions that go up in our planning area. They are still subject to our planning and subdivision regulations. So, the road to the right. I had to ask the question, is this a private road? How wide is the road? So, those are questions that, again, are coming up. Where is the second one? So, if you take one east, like it's just as you leave our city limits, it's on the south side of the road. Loren: So, would that be Washington County, or would that be Goshen? Lacie: It's in our planning area, and our planning area is subject for subdivisions, is subject to our subdivision regulations. Loren: Do we have to make a recommendation to the city council to file an injunction. Brian: No, you don't have to. Liz: I want to protect future buyers. I think this is a dangerous situation. And so, I would prefer an injunction because I think the city needs to take swift action. For no other reason to send a very clear message that we intend to protect our citizens and future residents of Goshen. So, that's why I get strategically that may not be the right move. It's the council's decision. Brian: Tom and I were talking not about this specific. Well, it did. This prompted it. But the question I think that Tom raised was, well, what if the property did not perk? And my answer was, well, unfortunately, that's between the buyer and the seller. You know, don't go buy a piece of property unless you know that you have a perk. We don't have a mechanism right now to stand in the way. Loren: The recommendation is that a perk test be done and letters and everything. Brian: Recommendations make perfect sense. Loren: I don't support that because you can't write a rule for everything. Somebody splits a 200-acre track into four 50s. There could be 30 different housing sites on those 50 acres. You shouldn't have to perk a 50-acre lot. You could run 12,000 lines of lead line in 18 different directions on a 50-acre lot. Tom: I agree with that. I agree that if somebody wants to buy a 50-acre parcel, they shouldn't have to perk every place you can build a house. But they should have to perk it once. If you're going to build on it, you should before you. Because she has no way of knowing, when they come in to apply for a building permit, whether that house can support the disposal of wastewater. Loren: There's no 50-acre lot that's not going to perk, though. You can run a quarter mile of lead lines. You can build a step system. Tom: If they split that thing into 25 two-acre lots. Each one of those lots needs to be perked. Loren: But that's why that five-acre minimum was originally just put in place. Five's too small. Maybe it needs to be 15. But there should be a point in which you don't have to do that. Because if you've got a 15-acre or a 20-acre lot, you don't need to perk it then. If that gets split down the road into something smaller than fives, then perk it then. Do you see what I'm saying? Tom: I do, at some point along the development process, the building permit process, I think it's part of our responsibility to ensure that, particularly considering the proximity to the lake, all that stuff, that the parcel can properly dispose of wastewater. And all they do; you know they're doing a 50-acre lot. But being able to get a one-hole dug, that's all it is, a backhoe out there, you dig a hole, they go out there. Loren: It just seems like an irrelevant test on a tract of property. Is five

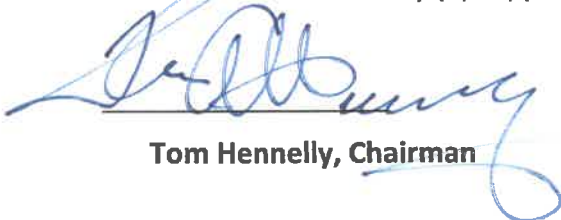
too small? Okay. But at some point, it's an irrelevant test. Mayor: I think they health the Department of Regulations with 10 acres or more. You don't have to. Loren: Then let's match it up with the health Department of Regulations, change our ordinance from five to 10 and move on. Tom: I don't have a problem with that, but that doesn't mean, in my view, which doesn't mean we should exempt somebody who has 50 acres and put five 10-acre lots out there. Maybe we tell them, you don't have to perk those 10-acre lots, but you're still subject to every other subdivision regulation. Loren: So, you still must build a road. Tom: Yes. And I think this is a shift that we're going to have to make from being the sleepy little agricultural community that we are. Lacie: I'm asking at the working session, and it's in the working session packet, to also change the number of tandem lots allowed, as well as change the number that makes it a minor subdivision versus a major subdivision. Loren: So, I convinced Max to sell me 10 acres on the top of his hill because I love that view and someday, I might want to build my house up there. We're going to make Max build a road suitable for fire protection from 45 to the top of his property before he can sell me a 10-acre tract. Do you see where I'm hung up? There are large tracts of agricultural and rural property in our planning area. You're severely limiting the financial gains of property owners saying they can't split off a 10-acre tract at the back of their property and sell it without building a paved road equal to fire protection. How many of our county roads in our planning area are built in? We have dirt roads that are county roads. I get in this with Washington County Planning every meeting. If I'm building a wedding venue in Prairie Grove, I'm not going to pave the road to it when you've got to drive 12 miles a county road that's dirt to get to my pavement. Somewhere you lose common sense. Tom: I'm 100% with you. I think we're in one of these situations where the pendulum is swinging both ways right now. We've tried to accommodate people and then somebody took advantage. Now we're trying to find a way to protect everybody. Not protect everybody because you can't protect everybody, but the situation you just laid out is legitimate. Somebody wants to buy 10 acres; they may not even build a house on it. That's right, for 10 years. They may go out there and just cut hay. That's a legitimate concern. My biggest concern is the fact that we don't take care of what we approve. That subdivision that Chuck did, those property lines go to an easement. There is nothing on that plat that shows who owns that easement. Mayor: It says on the plat that it's a dedicated city street. Tom: It's not. We know it's not because we didn't take it. Lacie: Greenland won't let you split your property. It doesn't matter how much property you have. They will not let you split your property whatsoever unless you have an improvement district. Something that says, if you're going to parcel off these properties, we need to know exactly where they're going to be parceled off. You must have some kind of infrastructure with an improvement district that's dedicated to those street improvements. What can Goshen do to maybe match that? We're not creating lots that are landlocked and are just going to be sitting for years and years and years. Why are we splitting it if it's just going to be sitting there for years and years? Tom: Maybe it's the number of lots that we've created. Loren: I'm just saying we've got to have some common

sense. Tom: I agree with you on that. We just must find a way to quantify it in that document. Lisa: I love the idea of looking at the improvement district language. It's not a full subdivision. There's a minimum standard if you're over X number of lots. Lacie: I still think that the exemption should be reworded in a way that it still comes before a plain commission, that the intent is still delivered. If somebody says, it's my intent to sit on this property for the next 10 years, well, you can't split it for 10 years. Sit on it for 10 years. Fine. Let's go ahead and split it. But if somebody, Chuck Browning, comes in and says, oh, ding, ding, ding. I'm exempt. You know what I mean? But what was the intent of the split? And I think that if the exemption is taken out, it puts it before a planning commission, regardless. Max: Can I make a comment or two? I agree with a lot of what Loren said as far as some of this goes. Like it must be 26 feet wide if it was over 750 feet long, hard surface. So, would that mean back to whatever road is there now? Because a lot of our city streets don't match that. That's right. We just need to think about that. There may be a way around it. Appendix D lets you have a wide spot by a fire hydrant. You can make a road that has a reasonable width and then have a wide spot every 600 feet or something. Tom: Because they're not driving that fire truck down that road with the outriggers out. Max: And the other part of it, where do you draw the line at regulating stuff? We thought that five-acre thing was a reasonable spot at the time. Because you can't, like he said, you can't make a rule for everything. You can try, and you can have it book that thick, and I can guarantee somebody will find something that's not in there. Liz: Well, that'll always be true. That doesn't mean we can't fix what's in front of us. I think that's true. There'll always be ways to work around there, things we can't regulate. But I think five is too small. It sounds like five's too small now. Max: And maybe it is. Several of us were on that task force. I don't know. If it is still 10 acres of health department, that's the line. Tom: And maybe it's the number of lots combined with the number of allowed tandem lots. Because the tandem lots seem to be problematic, and people keep that, oh, I just want to split this and this. You get somebody that splits 10 acres off on the road, and there's somebody that wants to add another one behind it and another one behind it. And then before you know it, you've got a subdivision. I think there's a responsible way to do it. We just all need to put our heads together and come up with a good system to make that happen because what we have right now, and if we have them professionally designed and properly constructed and overseen when they're constructed, the city's responsibility for that road is not going to start for 10 years. Minimum 10 years. Lacie: And just because we're taking out the exemption doesn't necessarily mean that we're not going to allow people to split their property. That's not what that means at all. It just means that everything comes before planning. Loren: Well, if you take the stance of fire code, that's something you can't wait. If we say that a lot can't be created unless a road is built to fire code standards, then you can't vary from that. You can't vary from state fire code. Brian: Which is part of our discussion Thursday, is to determine do we incorporate that? Loren: That to me is way too prohibitive of our risk. Lacie: So, Appendix D, it was initially adopted with Ordinance 190 because Appendix D is written in pages 15, 16, 17, and 18 of our

subdivision regulations. It was never actually specifically adopted in any ordinance ever. Max: Appendix D is listed specifically in the subdivision regulations. Lacie: In the subdivision regulations. But there was not an ordinance that adopted that. Max: Well, I don't know. It seems to me if you adopt the subdivision regulation that says it, it will include that. Lacie: It would. However, at the top of Appendix D, it says that you do not have to adopt Appendix D unless specifically listed in the ordinance. In the adopting ordinance. Ordinance, right. So, it was never actually adopted in any ordinance. So, either we need to create an ordinance that says we've adopted Appendix D or Appendix D doesn't matter. And if Appendix D doesn't matter, then the width of the road must be 20 feet wide. Brian: I think currently, Max, Appendix D applies in specific circumstances where it's referenced in the subdivision regulations. It's not a broad application citywide. Would be the difference. Whereas if we adopted it by reference in a standalone ordinance, then it would be. Tom: I just have a lot of the same feelings after driving through that subdivision that I had after the Dollar General was built. We have some work to do. I think you guys know me well enough to know that I'm not out to try to take somebody's property rights. But we've got an obligation to people. I don't think we can solve this tonight. Lisa: So how quickly can we solve it, and what's the pathway? Loren: Well, I think we've got one issue now that the City Council needs to take up an injunction. I would personally rather stay out of the fight than let the elected officials make that decision. So, if you all want to vote, I'm going to abstain. Brian: I don't think that we need to vote. I think that's the elected officials need to take that up and make that decision. Lacie: But the recommendation needs to be taken to City Council, so you must vote on that. Brian: We don't have to make a recommendation. And I guess I could go file it tomorrow, but I'm not going to unless the council says to. Liz: I'd like to schedule a public hearing for next month's meeting.

**Public Input:**

**Adjournment:** Michael Thompson motioned to adjourn at 6:52 pm. Seconded by Loren Shackleford. All in favor. Yay (6). Opposed. (0). The motion carried.



Tom Hennelly, Chairman