

**SPECIAL ORDINANCE NO. 40, 2016**

**APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE**

=====

Common Address of lots to be rezoned:

2808 S. 11 ½ Street, Terre Haute, IN 47802

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Rezone From: R-1 Single Family Residence District

Rezone To: R-1 Planned Development

Proposed Use: Housing with Social Services

Name of Owner: Families By Choice, Inc.

Address of Owner: 164 Allendale Court  
Terre Haute, IN 47802

Phone Number of Owner Dr. Muriel D. Ryan, Executive Director: (812) 298-0092

Attorney Representing Owner: Richard J. Shagley

Address of Attorney: Wright, Shagley & Lowery , P.C.  
PO Box 9849, Terre Haute, IN 47808

For Information Contact:  Owner  Attorney

Council Sponsor: Amy Auler

=====

**COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION**

FILED

DEC 8 2016

SPECIAL ORDINANCE NO. 40, 2016  
AS AMENDED

CITY CLERK

An Ordinance Amending Chapter 10, of the Terre Haute City Code, Zoning and Subdivision Regulations, as adopted by General Ordinance No. 10, 1999, as Amended, entitled AAn Ordinance Adopting And Enacting A Code Of Ordinances For The City Of Terre Haute, Indiana; Establishing The Same; Providing For The Repeal Of Certain Ordinances Not Included Therein, Except As Herein Provided; Providing For The Manner Of Amending Such Code Of Ordinances; Providing A Penalty For Violations Thereof; Providing When This Ordinance Shall Become Effective And Officially Adopting The Terre Haute City Code, And Passing Ordinances Addressing Fees, Fines And Regulations.

BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, as follows:

SECTION I. That Chapter 10, of the Terre Haute City Code, known and referred to as AThe Comprehensive Zoning Ordinance for Terre Haute@ of General Ordinance No. 10, 1999, effective, December 10, 1999, Section 10-121, thereof, District Maps, is hereby amended to read as follows:

Lots 270 and 271, in Rosemont, a Subdivision of a part of the South West Quarter of Section 34, Township 12 North, Range 9 West, in Vigo County, Indiana, shown in Plat Record 8, Page 23 dated November 12, 1904 in records of the Recorder's Office of Vigo County, Indiana.

(Commonly known as 2808 S. 11 ½ Street, Terre Haute, Indiana 47802.)

be and the same is, hereby established as an R-1 Planned Development, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.

That the real estate described shall be a Planned Development in an R-1 Planned Development as the same is defined in the Comprehensive Zoning Ordinance for the City of Terre Haute, Indiana, subject to the terms and condition set forth herein.

- (a) That the real estate shall be used for any use permitted in an R-1 Planned Development and transitional housing with social services.

"Social services" for the purposes of this Ordinance is the provision of food, clothing and supportive programs for single mothers and young children (under 12 years old).

- (b) In the event that this Planned Development has not materialized within six (6) months of approval, it is understood that said Planned Development becomes void.

- (c) In the event the real estate is not utilized as a Planned Development for a continuous six (6) months for transitional housing with social services, the said Planned Development becomes void.
- (d) A variance is hereby granted from Table 4 Schedule of Minimum Off-Street Parking Requirements and Table 1 Thoroughfare Plan Requirements (Minimums).
- (e) All such rights granted herein shall be fully transferable.
- (f) Said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of the approval by the Council.

That the owners have met all of the criteria determined by the Area Planning Commission, except as stated above and by the City Council of Terre Haute, Indiana, that a hardship does exist, due to the improvements on the real estate (nature of structure in the neighborhood), the physical characteristics of the real estate (the large size of the Petitioner's real estate), and that a Planned Development as set forth herein is hereby approved and will be in the public's interest and that substantial justice will be done for the neighborhood.


SECTION II. WHEREAS, the Area Planning Commission has considered a petition filed pursuant to General Ordinance No. 10, 1999, being Division III Planned Development; and

WHEREAS, Amended Special Ordinance No. 40, 2016, has been referred to the Area Planning Commission for its review and consideration and a favorable recommendation has been referred by the Commission to the Common Council; and


WHEREAS, a public hearing on Amended Special Ordinance No. 40, 2016, has been held pursuant to Section 10 of said Ordinance and the owner of the real estate described has demonstrated to the Area Planning Commission and to the Common Council evidence that a hardship exists pursuant to Section 10-112 of said Ordinance and that said Planned Development will not adversely affect surrounding property values, and that it will not adversely affect public health, safety and the general welfare.

BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Indiana that the owners of the real estate described have demonstrated that a hardship does exist for the use of said real estate and that the Common Council of the City of Terre Haute now determines that a hardship does exist and specifically authorizes and approves the uses of the real estate described as an R-1 Planned Development as described in this Ordinance, under the terms and conditions set forth herein, and further finds and determines that the proposed uses described will be in the public interest and that substantial justice will be done.

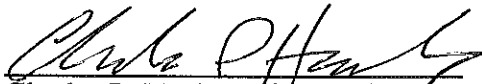
SECTION III. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as by law provided.

Presented by Council Member,   
Amy Auler, Councilperson


Passed in open Council this 8<sup>th</sup> day of December, 2016.

  
Todd Nation, President

ATTEST:

  
Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 16<sup>th</sup> day of December, 2016.

  
Charles P. Hanley, City Clerk

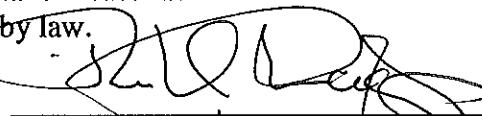
Approved by me, the Mayor of the City of Terre Haute, this 16<sup>th</sup> day of December, 2016.

  
Duke A. Bennett, Mayor

ATTEST:

  
Charles P. Hanley, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

  
Richard J. Shagley

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

FILED

NOV 03 2016

CITY CLERK

**SPECIAL ORDINANCE NO. 40, 2016**

An Ordinance Amending Chapter 10, of the Terre Haute City Code, Zoning and Subdivision Regulations, as adopted by General Ordinance No. 10, 1999, as Amended, entitled "An Ordinance Adopting And Enacting A Code Of Ordinances For The City Of Terre Haute, Indiana; Establishing The Same; Providing For The Repeal Of Certain Ordinances Not Included Therein, Except As Herein Provided; Providing For The Manner Of Amending Such Code Of Ordinances; Providing A Penalty For Violations Thereof; Providing When This Ordinance Shall Become Effective And Officially Adopting The Terre Haute City Code, And Passing Ordinances Addressing Fees, Fines And Regulations".

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(Commonly known as 2808 S. 11 ½ Street, Terre Haute, Indiana 47802.)

be and the same is, hereby established as an R-1 Planned Development, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.

That the real estate described shall be a Planned Development in an R-1 Planned Development as the same is defined in the Comprehensive Zoning Ordinance for the City of Terre Haute, Indiana, subject to the terms and condition set forth herein.

- (a) That the real estate shall be used for any use permitted in an R-1 Planned Development and housing with social services.
- (b) In the event that this Planned Development has not materialized within six (6) months of approval, it is understood that said Planned Development becomes void.

- (c) A variance is hereby granted from Table 4 Schedule of Minimum Off-Street Parking Requirements and Table 1 Thoroughfare Plan Requirements (Minimums).
- (d) All such rights granted herein shall be fully transferable.
- (e) Said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of the approval by the Council.

That the owners have met all of the criteria determined by the Area Planning Commission, except as stated above and by the City Council of Terre Haute, Indiana, that a hardship does exist, due to the improvements on the real estate, the physical characteristics of the real estate, and that a Planned Development as set forth herein is hereby approved and will be in the public's interest and in the interest of the neighborhood.

SECTION II. WHEREAS, the Area Planning Commission has considered a petition filed pursuant to General Ordinance No. 10, 1999, being Division III Planned Development; and

WHEREAS, Special Ordinance No. 40, 2016, has been referred to the Area Planning Commission for its review and consideration and a favorable recommendation has been referred by the Commission to the Common Council; and

WHEREAS, a public hearing on Special Ordinance No. 40, 2016, has been held pursuant to Section 10 of said Ordinance and the owner of the real estate described has demonstrated to the Area Planning Commission and to the Common Council evidence that a hardship exists pursuant to Section 10-112 of said Ordinance and that said Planned Development will not adversely affect surrounding property values, and that it will not adversely affect public health, safety and the general welfare.

BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Indiana that the owners of the real estate described have demonstrated that a hardship does exist for the use of said real estate and that the Common Council of the City of Terre Haute now determines that a hardship does exist and specifically authorizes and approves the uses of the real estate described as an R-1 Planned Development as described in this Ordinance, under the terms and conditions set forth herein, and further finds and determines that the proposed uses described will be in the public interest and that substantial justice will be done.

SECTION III. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as by law provided.

Presented by Council Member, \_\_\_\_\_  
Amy Auler, Councilperson

Passed in open Council this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Todd Nation, President

ATTEST:

\_\_\_\_\_  
Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Duke A. Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Charles P. Hanley, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

\_\_\_\_\_  
Richard J. Shagley

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

**PETITION TO REZONE REAL PROPERTY**

TO: THE PRESIDENT AND MEMBERS OF THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE, INDIANA;

and THE PRESIDENT AND MEMBERS OF THE AREA PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

The undersigned, Families By Choice, Inc., by its Executive Director, Dr. Muriel D. Ryan, respectfully submits this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lots 270 and 271, in Rosemont, a Subdivision of a part of the South West Quarter of Section 34, Township 12 North, Range 9 West, in Vigo County, Indiana, shown in Plat Record 8, Page 23 dated November 12, 1904 in records of the Recorder's Office of Vigo County, Indiana.

(Commonly known as 2808 S. 11 ½ Street, Terre Haute, Indiana 47802.)

The Petitioner is informed and believes that in accordance with Chapter 10, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute", as amended, the above described real estate is now zoned as R-1 Single Family Residence District.

Your Petitioner would respectfully state that the real estate is an existing three (3) unit residential building, which is being utilized for housing and social services for homeless women.

Your Petitioner would request that the real estate described herein shall be zoned as an R-1 Planned Development to allow for the use as proposed by Petitioner. Your Petitioner would allege that the R-1 Planned Development would not alter the general characteristics of this neighborhood.

Your Petitioner is requesting variance for setbacks for the existing building and parking requirements because almost all of the persons serve do not have an automobile.

Your Petitioner would allege that there is a hardship due to: 1) improvements on the real estate (nature of structure in this neighborhood; and 2) the physical characteristics of the land (the large size of Petitioner's real estate).

Your Petitioner would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

WHEREFORE, your Petitioner respectfully requests that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the District Maps of Chapter 10, of the Terre Haute City Code entitled The Comprehensive Zoning Ordinance for Terre Haute, Section 10-121 District Maps and declaring the above-described real estate to be part of the R-1 Planned




Development of the City of Terre Haute, Indiana, and is entitled to the rights and benefits that may accrue to the real estate and the owner thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

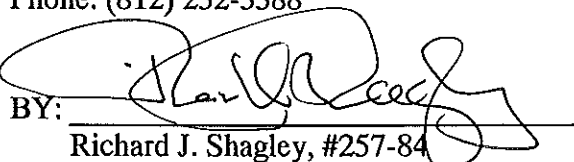
IN WITNESS WHEREOF, the undersigned Petitioner has caused this Petition to Rezone Real Property to be executed, this 2<sup>ND</sup> day of November, 2016.

**PETITIONER:**

**FAMILIES BY CHOICE, INC.**

By:   
Dr. Muriel D. Ryan, Executive Director

WRIGHT, SHAGLEY & LOWERY, P.C.  
500 Ohio Street  
PO Box 9849  
Terre Haute, IN 47808  
Phone: (812) 232-3388

BY:   
Richard J. Shagley, #257-84  
Attorneys for Petitioner

The owner and mailing address: Families By Choice, Inc., 164 Allendale Court, Terre Haute, IN 47802.

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

Site Plan of S.O. 40, 2016

2808 S. 11 1/2 Street, Terre Haute, IN 47802

R-1 to R-1 PD.



OCT 23 2012

*Nancy S. Allsup*  
VIGO COUNTY AUDITOR

EXEMPT FROM DISCLOSURE FEE

WARRANTY DEED

This Indenture Witnesseth that Bernard G. Ryan and Muriel D. Ryan, husband and wife, of Vigo County, State of Indiana, Conveys and Warrants to Families By Choice, Inc., an Indiana corporation, of Vigo County, State of Indiana, for and in consideration of One Dollar and other valuable consideration, the receipt whereof is hereby acknowledged, the following described real estate in Vigo County, State of Indiana, to-wit:

Lots 270 and 271, in Rosemont, a Subdivision of a part of the South West Quarter of Section 34, Township 12 North, Range 9 West, in Vigo County, Indiana, shown in Plat Record 8, Page 23 dated November 12, 1904 in records of the Recorder's Office of Vigo County, Indiana.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

IN WITNESS WHEREOF, The said grantors above named have hereunto set their hands and seals, this 31<sup>ST</sup> day of August, 2012.

*Bernard G. Ryan*  
Bernard G. Ryan

*Muriel D. Ryan*  
Muriel D. Ryan

STATE OF INDIANA, COUNTY OF VIGO ) SS:

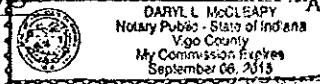
Before me, a Notary Public in and for said county and state, this 31<sup>ST</sup> day of August, 2012, personally appeared Bernard G. Ryan and Muriel D. Ryan, husband and wife, who acknowledged the execution of the foregoing Warranty Deed to be their voluntary act and deed and stated that the representations therein contained are true as they verily believe.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

*Daryl L. McCleary*  
Daryl L. McCleary Notary Public

09-06-2015 A resident of VIGO County, Indiana



Mail Tax Duplicates to: 164 Allendale Court Terre Haute, IN 47802

Mailing address of the real estate is 2808 South 11 1/2 Street, Terre Haute, Indiana 47802

Mailing address of the Grantee is 164 Allendale Court Terre Haute, IN 47802

This instrument prepared by: C. Don Nattkemper, Attorney at Law, 2901 Ohio Boulevard, Suite 160, Terre Haute, Indiana 47803.

I affirm, under the penalties for perjury that I have taken reasonable care to redact each Social Security number in this document, with the exception of:

*[Signature]*

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF VIGO        )

**AFFIDAVIT**

Comes now, Families By Choice, Inc. by Dr. Muriel D. Ryan, Executive Director, being duly sworn upon her oath, deposes and says:

1. That Families By Choice, Inc. is the fee simple owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lots 270 and 271, in Rosemont, a Subdivision of a part of the South West Quarter of Section 34, Township 12 North, Range 9 West, in Vigo County, Indiana, shown in Plat Record 8, Page 23 dated November 12, 1904 in records of the Recorder's Office of Vigo County, Indiana.

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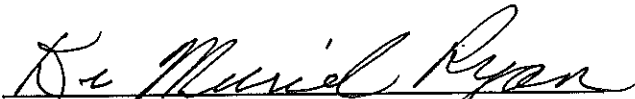
2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Families By Choice, Inc. is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiant makes this Affidavit for the sole purpose of affirming that Families By Choice, Inc. is the owner of record of the above-described real estate for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by Families By Choice, Inc.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 2<sup>nd</sup> day of November, 2016.

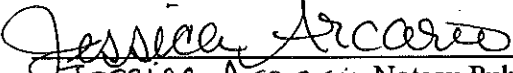
**FAMILIES BY CHOICE, INC.**

By:   
Dr. Muriel D. Ryan, Executive Director

(Notary to Follow)

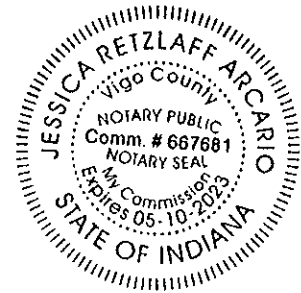
STATE OF INDIANA )  
 ) SS:  
COUNTY OF VIGO )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 2nd day of November, 2016.

  
Jessica Arcario Notary Public

My Commission expires:  
05-10-2023

My County of Residence:  
Vigo



This instrument prepared by Richard J. Shagley, Attorney at Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

Receipt

The following was paid to the City of Terre Haute, Controller's Office.

Date: 11/3/16

Name: Wright, Shagley & Lowery PC

Reason:	<u>Rezoning - Notice of Filing</u>	<u>\$25.00</u>
	<u>Rezoning - Petition</u>	<u>\$20.00</u>
		<u>\$45.00</u>

TERRE HAUTE, IN  
PAID  
NOV 15 2016  
CONTROLLER

Cash: \_\_\_\_\_

Check: <sup>#</sup>66598 \$45.00

Credit: \_\_\_\_\_

Total: 45.00

Received By: L Ellis/gw





**TERRE HAUTE**  
A LEVEL ABOVE

# Area Planning Department For Vigo County

159 Oak Street, Terre Haute, Indiana 47807

Telephone: (812) 462-3354

Fax: (812) 234-3248

Terre Haute • West Terre Haute • Riley • Seelyville

DATE: December 8, 2016

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER #40-16

CERTIFICATION DATE: December 7, 2016

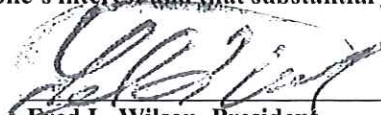
TO: The Honorable Common Council of the City of Terre Haute

Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 40-16. This Ordinance is a rezoning of the property located at 2808 South 11 ½ St. The Petitioner, Families by Choice, Inc./ Dr. Muriel D. Ryan, petitions the Plan Commission to rezone said real estate from zoning classification R-1 to Planned Development District, for a housing with social services residence. The Ordinance was published in the Tribune-Star Newspaper in accordance with IC 5-3-1 and Division XIII of the Comprehensive Zoning Ordinance. Further, this ordinance was posted by the City Building Inspection Department in accordance with IC 36-7-4-604(c).

The Area Plan Commission considered Special Ordinance No. 40-16 at a public meeting and hearing held Wednesday, December 7, 2016. Remonstrators were present. At this meeting, a quorum was present throughout the meeting pursuant to IC 36-7-4-301, and the Area Plan Commission took official action on Special Ordinance No. 40-16 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 40-16 as required by IC 36-7-4-401(a)(7) and IC 36-7-4-605(c).

Therefore, Area Plan Commission's certified recommendation on Special Ordinance No. 40-16 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) That it is found that the Petitioner has a hardship as outlined above; 2) It must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood.-

  
Fred L. Wilson, President

  
Jared Bayler, Interim Director

Received this 8th day of December, 2016

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #40-16  
Date: December 2016

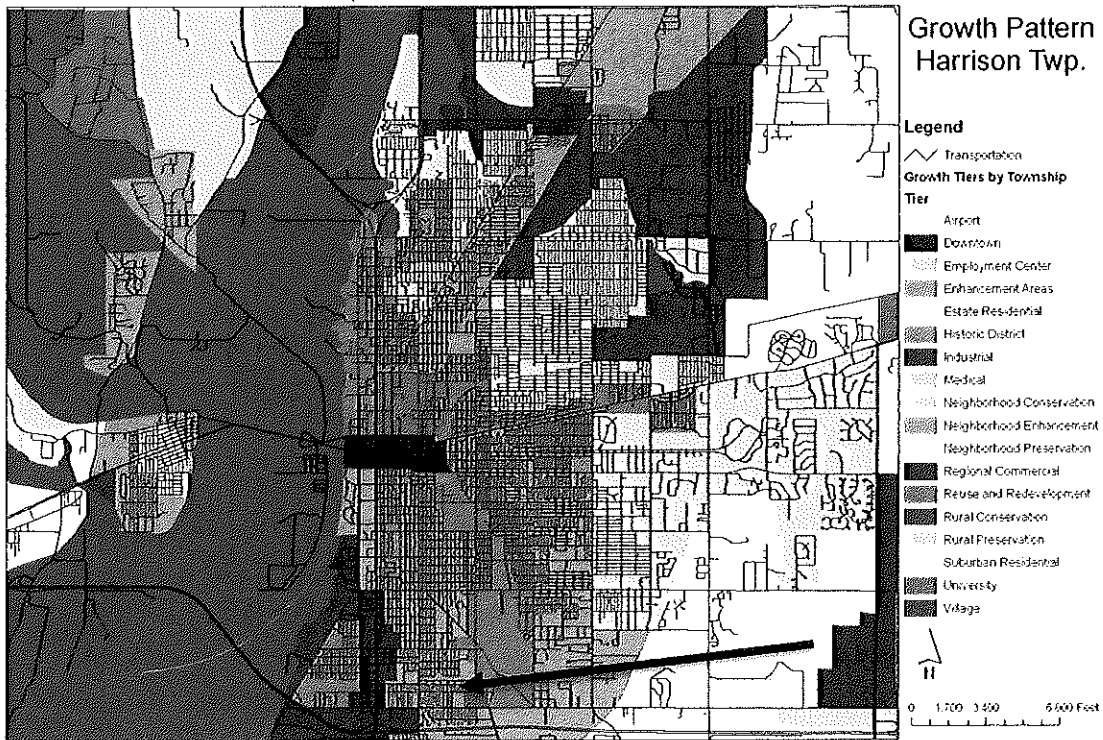
Doc: # 88  
Page 1 of 5

**APPLICATION INFORMATION**

Petitioner: Families by Choice, Inc.  
Property Owner: Dr. Muriel D. Ryan  
Representative: Richard J. Shagley  
Proposed Use: Housing with Social Services  
Proposed Zoning: Planned Development District  
Current Zoning: R-1, Single-Family Residence District  
Location: The property is on the east side of S. 11 ½ St. It is the second home from the corner of Helen and 11 ½.  
Common Address: 2808 S 11 ½ Street, Terre Haute, IN 47802

**COMPREHENSIVE PLAN GUIDANCE**

Service Area: The City of Terre Haute





### Neighborhood Enhancement Areas

Areas that qualify as Neighborhood Enhancement, represent residential areas with aging housing stock, older industrial areas that are in need of reinvestment, and neighborhood commercial nodes that need assistance in meeting modern development standards. These areas are primarily located within the Terre Haute, West Terre Haute, Seelyville, and Riley.

In regards to residential neighborhoods that are in need of rehabilitation, they should receive priority efforts with respect to public improvements such as drainage, sidewalks, street, curb and gutter repair and replacement, and landscaping in the public rights-of-way. Where appropriate, new residential infill projects should be considered a high priority for undeveloped parcels. Over time incompatible and inconsistent uses with the residential context of these neighborhoods should be eliminated.

Over time, it is reasonable to expect some displacement of existing industrial facilities, either because of functional and competitive obsolescence of facilities themselves or because corporate restructuring. As facilities are displaced, facility reuse plans or site redevelopment plans should be prepared. In some cases, industrial reuse or redevelopment may not be appropriate, for example in older core of the City of Terre Haute.

Neighborhood commercial areas are small scale, retail activity clusters or planned centers that serve limited market areas – typically 4,000 to 10,000 people. They provide shopping opportunities for those most frequently purchased goods and services. Neighborhood commercial areas should be distributed throughout the community in relationship to the distribution of households. Each neighborhood commercial center should be a master planned commercial development that is contained within a defined tract or land area. Auto ingress and egress must be controlled. Most importantly, these areas should relate to surrounding residential neighborhoods but not adversely impact the livability of those neighborhoods through traffic, lighting, noise, litter, or other impacts. They will require strong buffering and landscape regulations, as well as being architecturally harmonized and able to blend with their neighborhood context.

Additional policies for Neighborhood Enhancement Areas should include:

- Encourage infill development that is compatible with the land use mix and intensity of existing development.
- Support preservation and rehabilitation of historic properties.
- Incompatible and inconsistent uses with the residential context of these neighborhoods should be eliminated.
- Identify areas that need sub-area plans and prioritize the development of those plans by area.
- Allow for a range of housing densities based on the zoning ordinance.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #40-16  
Date: December 2016

Doc: # 88  
Page 3 of 5

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Dev. Priority: There is a low development priority in this area. Focus should remain on stability and reinvestment in the neighborhood.

**ZONING COMPATIBILITY**

Sur. Zones and Uses:  
**North** – R-1, Single Family Residence District  
**East** – R-1, Single Family Residence District  
**South** – R-1, Single Family Residence District  
**West** – R-1, Single Family Residence District

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**ZONING REGULATIONS**

- b. Uses, Permitted - R-1 Single-Family Residence District.
- (1) One-family detached dwellings.
  - (2) Cemeteries, including crematories and mausoleums in conjunction therewith if not located within four hundred feet (400') of any other property in a Residence District.
  - (3) Churches, Rectories, and Parish Houses.
  - (4) Convents and Monasteries.
  - (5) Gardening, including nurseries, provided that no offensive odors or dust are created.
  - (6) Golf Courses, but not including commercially-operated driving ranges or miniature golf courses, provided that no clubhouse shall be located within three hundred feet (300') of any other property in a Residence District.
  - (7) Libraries, Public. (Ord. No. 1, 1967, § 1131.01 a. - b., 7-6-67)
  - (8) Child Care.
  - (9) Home Occupations. (Gen. Ord. No. 17, 2000, 9-14-00)
  - (10) Parks and Playgrounds, publicly owned and operated.
  - (11) Schools, elementary and high, non-boarding and including playgrounds and athletic fields incidental thereto.

**Planned Developments**

Planned Developments are uses that may be permitted, under certain circumstances that are not a permitted use in the zoned district where said Planned Development is proposed. A Planned Development is a floating zone.

Before a Planned Development can be considered, the petitioner must show proof of one of the following unique circumstances. That the petitioner has a:

- (1) Hardship due to the physical characteristics of the land.  
Example - Peculiarities of the sizes, shape, or grade of the parcel in question.

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- (2) Hardship due to the improvements on the land.  
Example - Commercial structure in a residential neighborhood that is not suitable for residential use.
- (3) Hardship due to adjacent, scattered incompatible uses.  
Example - Scattered commercial uses in a residential neighborhood.
- (4) Hardship due to the general deterioration of the neighborhood.  
Example - Neighborhoods that are blighted as determined by the Department of Redevelopment.
- (5) Parcel located near district boundary lines.  
Example - Parcel located on a major thoroughfare is presently zoned residential while other parcels in the area are zoned commercial.

When it is determined by the Area Plan Commission and the City Council that a hardship does exist, a Planned Development of certain uses may be approved for any zoned lot. However, it must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood. Approval of said proposed uses shall not have the intent of nullifying the purpose of these zoning regulations.

## FINDINGS and RECOMMENDATION

Staff Findings: Currently on site is a single family home that has been converted into 3 "units." In response to a complaint about large numbers of people living at the address the petitioner is attempting to rezone to a planned development. Persons living at the location are to be housed as a social service.

As a part of the Planned Development the applicant is seeking a variance from Table 4, Schedule of Minimum Off-Street Parking Requirements.

The rezoning request is in response to an enforcement action by the city. The complaint stated that large numbers of persons were living at the home. Our office has record of similar complaints having been filed against the petitioner as far back as 2006.

The PD does restrict the numbers of persons living at this location. At full capacity 5 residents unrelated by blood or marriage could still live there. With dependents the number could still easily balloon to 10-15.

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The City Engineering department and Area Planning both agree that the petitioner should voluntarily limit the persons living that the location to a max of 5 regardless of age or dependent status.

Recommendation: Staff offers a Favorable Recommendation for the R-1 PD with the following conditions:

1. That is it found that the petitioner has a hardship as outlined above
2. It must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood.
3. The petitioner agrees to amend their petition to limit the occupancy to 5 persons max.

**SECOND AMENDED SPECIAL ORDINANCE NO. 40, 2016**

An Ordinance Amending Chapter 10, of the Terre Haute City Code, Zoning and Subdivision Regulations, as adopted by General Ordinance No. 10, 1999, as Amended, entitled "An Ordinance Adopting And Enacting A Code Of Ordinances For The City Of Terre Haute, Indiana; Establishing The Same; Providing For The Repeal Of Certain Ordinances Not Included Therein, Except As Herein Provided; Providing For The Manner Of Amending Such Code Of Ordinances; Providing A Penalty For Violations Thereof; Providing When This Ordinance Shall Become Effective And Officially Adopting The Terre Haute City Code, And Passing Ordinances Addressing Fees, Fines And Regulations".

BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, as follows:

**SECTION I.** That Chapter 10, of the Terre Haute City Code, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute" of General Ordinance No. 10, 1999, effective, December 10, 1999, Section 10-121, thereof, District Maps, is hereby amended to read as follows:

Lots 270 and 271, in Rosemont, a Subdivision of a part of the South West Quarter of Section 34, Township 12 North, Range 9 West, in Vigo County, Indiana, shown in Plat Record 8, Page 23 dated November 12, 1904 in records of the Recorder's Office of Vigo County, Indiana.

(Commonly known as 2808 S. 11 ½ Street, Terre Haute, Indiana 47802.)

be and the same is, hereby established as an R-1 Planned Development, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.

That the real estate described shall be a Planned Development in an R-1 Planned Development as the same is defined in the Comprehensive Zoning Ordinance for the City of Terre Haute, Indiana, subject to the terms and condition set forth herein.

- (a) That the real estate shall be used for any use permitted in an R-1 Planned Development and transitional housing with social services with a maximum of five (5) adults not related by blood or marriage and no more than a self-imposed maximum of twelve (12) persons.

"Social services" for the purposes of this Ordinance is the provision of food, clothing and supportive programs for single mothers and young children (under 12 years old).

- (b) In the event that this Planned Development has not materialized within six (6) months of approval, it is understood that said Planned Development

becomes void.

- (c) In the event the real estate is not utilized as a Planned Development for a continuous six (6) months for transitional housing with social services, the said Planned Development becomes void.
- (d) A variance is hereby granted from Table 4 Schedule of Minimum Off-Street Parking Requirements and Table 1 Thoroughfare Plan Requirements (Minimums).
- (e) All such rights granted herein shall be fully transferable.
- (f) Said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of the approval by the Council.

That the owners have met all of the criteria determined by the Area Planning Commission, except as stated above and by the City Council of Terre Haute, Indiana, that a hardship does exist, due to the improvements on the real estate (nature of structure in the neighborhood), the physical characteristics of the real estate (the large size of the Petitioner's real estate), and that a Planned Development as set forth herein is hereby approved and will be in the public's interest and that substantial justice will be done for the neighborhood.

SECTION II. WHEREAS, the Area Planning Commission has considered a petition filed pursuant to General Ordinance No. 10, 1999, being Division III Planned Development; and

WHEREAS, Amended Special Ordinance No. 40, 2016, has been referred to the Area Planning Commission for its review and consideration and a favorable recommendation has been referred by the Commission to the Common Council; and

WHEREAS, a public hearing on Amended Special Ordinance No. 40, 2016, has been held pursuant to Section 10 of said Ordinance and the owner of the real estate described has demonstrated to the Area Planning Commission and to the Common Council evidence that a hardship exists pursuant to Section 10-112 of said Ordinance and that said Planned Development will not adversely affect surrounding property values, and that it will not adversely affect public health, safety and the general welfare.

BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Indiana that the owners of the real estate described have demonstrated that a hardship does exist for the use of said real estate and that the Common Council of the City of Terre Haute now determines that a hardship does exist and specifically authorizes and approves the uses of the real estate described as an R-1 Planned Development as described in this Ordinance, under the terms and conditions set forth herein, and further finds and determines that the proposed uses described will be in the public interest and that substantial justice will be done.

SECTION III. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common

Council of Terre Haute, and its approval by the Mayor and publication as by law provided.

Presented by Council Member, \_\_\_\_\_  
Amy Auler, Councilperson

Passed in open Council this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Todd Nation, President

ATTEST:

\_\_\_\_\_  
Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Duke A. Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Charles P. Hanley, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

\_\_\_\_\_  
Richard J. Shagley

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.