

# SWITCHPOINT RESIDENTIAL SUPPORT PROGRAM

## 1871 EAST 3300 SOUTH

### FREQUENTLY ASKED QUESTIONS

#### PERMIT PARAMETERS

**1. Will the Switchpoint facility be a homeless shelter?**

No. A homeless shelter is designed to provide free overnight sleeping accommodations for the homeless, typically on a walk-in basis. Switchpoint is proposing to operate what they call a “supportive housing facility” which will be licensed as a *Residential Support Program* by the Utah Department of Health and Human Services. Residents will have to be referred to this program by a clinical team and will be expected to sign a long-term lease and pay a portion of their income as rent. Sometimes that income is disability income, Medicaid, or other public benefits.

**2. Will the Switchpoint facility be a behavioral health hospital?**

A Residential Support Program is not designed to provide acute mental health care. Clients will be on the path toward stability before they become residents of the facility. The Health and Human Services license for Residential Support Programs requires wraparound support services, above and beyond what, for example, a drug treatment program provides. The program will be subject to inspection multiple times per year by insurance providers, Salt Lake County, and the Department of Health and Human Services to ensure compliance. The status of Switchpoint’s other licenses is regularly monitored by the State.

**3. What is the property zoned? Is a Residential Support Program permitted in the zone?**

The property is zoned Multifamily Residential (RM), and Residential Facilities for Persons with a Disability are permitted in the RM zone. Both the previous assisted living facility and the proposed residential support program are defined in Millcreek’s Code as Residential Facilities for Persons with a Disability. Furthermore, Millcreek’s Code requires that any residential support program be licensed as such in order to qualify as a residential facility for persons with a disability.

**4. Can Millcreek deny a permit for a use that is permitted in the zone?**

No. As long as the proposed use meets the requirements in the code, Millcreek cannot deny a permit for a use that the RM zone expressly permits.

**5. Are we obligated to accept a Residential Facility for Persons with a Disability in our neighborhood, even if the facility treats people with mental health challenges, or who were previously homeless?**

Yes. Federal law and Millcreek’s own zoning ordinance protect the rights of disabled Americans to live in residential neighborhoods, and this includes people who suffer from mental health or substance use disorders. Disabled Americans have as much a right to live in a Millcreek neighborhood as anyone else does.

Denial of a permit for a Residential Facility for Persons with a Disability is a violation of both the Fair Housing Act and the Americans with Disabilities Act, and would violate our own zoning code. In 2016, the Department of Justice and the Department of Housing and Urban Development issued a Joint Statement that clarified that denying, delaying, or adding unreasonable conditions to a permit based on stereotypical perceptions about a protected class of disabled people is a likely violation of the Fair Housing Act.

**6. What are the consequences of denying a permit?**

The consequences of violating the Americans with Disabilities Act and the Fair Housing Act are dire. Millcreek would be subject to a civil rights action from the Department of Justice, the applicant or potential residents and it would imperil many grants and appropriations we have received from federal and state agencies, because in those grant agreements we commit to further fair housing and protect the rights of all who live in Millcreek.

**7. Can we impose conditions on a permit?**

Millcreek can impose limited conditions on a permit that are not unduly burdensome and are not discriminatory. We can regulate, within reason, parking and operational considerations, as long as they are not discriminatory against a disabled person. For example, because the Residential Support Program is reliant on state licensing, we can impose a condition that requires Switchpoint to maintain their state license for a Residential Support Program in good standing. Any operational commitments Switchpoint makes to remain compliant with insurance reimbursements can also be imposed as conditions on our permit.

**8. Who approves the permit?**

Millcreek's municipal code states that the Planning Director, with the assistance of the city attorney, shall approve permits for a Residential Facility for Persons with a Disability. The municipal code does not contemplate a role for the City Council, or a process of public hearings, in the permit approval process.

**SAFETY AND NEIGHBORHOOD COMPATIBILITY**

**9. Does it make sense to have this type of use near homes, schools, and parks?**

Millcreek and Salt Lake County have a long history of permitting assisted living facilities and skilled nursing facilities in residential zones, because we value having these uses in residential areas. Federal law is clear that any zone in a city that permits residential uses of any kind must also accommodate residential facilities for persons with a disability in that same zone. If we permit an assisted living facility or a skilled nursing facility in a zone near homes, schools, and parks, we must also permit any residential facility for persons with a disability in that same zone.

**10. Are there Residential Support Programs and other facilities for persons with a mental health disability in other Millcreek neighborhoods?**

Yes. While this type of project may be new to the Canyon Rim neighborhood, it will not be unique to the Canyon Rim Neighborhood.

The Mount Olympus Community District hosts three group homes. The East Mill Creek Community District hosts a residential substance use treatment facility. The Canyon Rim neighborhood hosts a facility that supports people with a developmental disability. The Millcreek Community District, which includes everything west of Highland Drive, hosts five residential substance use treatment facilities, four residential mental health treatment facilities, and at least three group homes serving residents who have either a mental health or substance use disorder diagnosis. These uses are embedded within, or are immediately adjacent to, single-family residential neighborhoods.

**11. Is the facility suitable for use as a Residential Support Program? Is additional green space required?**

This facility was legally constructed in 1999, and it has been subject to regular inspection by the Department of Health and the Fire Marshal ever since then. The building is well suited for a Residential Support Program, and received an inspection by city staff earlier this week. The facility complied with the standards for open space in effect at the time it was initially permitted as a residential facility. That use is not changing, and we cannot require as a condition of approval the addition of any “green space.”

**12. Will there be security at the Switchpoint Residential Support Program?**

Yes. There will be on-site and off-site security, and a code of conduct. As the provider, Switchpoint will be providing 24/7 on-site security in the form of professional staff who are trained in de-escalation and trauma informed care in a clinical setting. At least one member of staff will be uniformed security, and will monitor the front doors of the facility at all times. Guests will be limited to one at a time per resident, and visiting hours are limited to 8 am to 10 pm, and will be subject to a background check.

**13. How will Switchpoint work with the Unified Police Department?**

Switchpoint, the City and the Unified Police Department will meet at least monthly to discuss what is working, and what is not working, at the facility. This proactive relationship between UPD, the City, and staff is a proven model we used for the Temporary Overflow Shelter last year, that helped reduce adverse impacts to the surrounding neighborhood. Active drug use and violent behavior are grounds for eviction from the program.

**14. Will convicted sex offenders and violent criminals be admitted into the Residential Support Program?**

No. Switchpoint will perform screening and background checks of every potential resident. Individuals with sex offense, murder, or manslaughter convictions at any time in the past, violent criminal charges within the last seven years, or distribution or theft charges within the last three years will not be admitted into the Residential Support Program.

**FACILITY OPERATIONS AND TREATMENT PROTOCOLS**

**15. How will residents be treated?**

The Residential Support Program is not a behavioral health hospital, and Switchpoint will not provide acute behavioral health care. To participate in the Residential Support Program, residents must be accepted into and participate with an Assertive Community Treatment (ACT) Team. An ACT Team is comprised of qualified medical, psychological and social work professionals who work with these individuals based upon a prescribed ratio of residents per team. They ensure these individuals are receiving and maintaining treatment regimens, including medication, to stabilize them and address their mental health issues.

The ACT Teams will be inside the facility every day, or nearly every day, to help residents on site. ACT teams operate in addition to the on-site staff. Residents may have the capability of going off-site for some aspects of their treatment, depending upon the individual and their need. Most of the residents will receive their treatment on-site from these outside professional team members. This is not unlike healthcare professionals

who come on site to attend to residents of an assisted living facility for the elderly. It's just much more intense.

In addition, the facility will provide programming to occupy residents during waking hours. Some of that may be field trips but it will be mostly on-site. For example, residents will be encouraged to assist with communal cooking, cleaning, etc. to the extent they are able.

**16. Can residents come and go as they please?**

Yes. The proposed residential facility is not a jail or a lockdown facility. Participation in this residential facility is voluntary, as it is in any other assisted living or skilled nursing facility. Because the residents are paying rent and, in some cases working, Switchpoint cannot legally prevent a resident from leaving at certain hours. However, Switchpoint is including a code of conduct in their lease agreement that stresses the importance of being a good neighbor and respecting the property rights and privacy of their neighbors. In addition, the facility will be monitored at all times with staff at the front door.

**THE HAVEN**

**17. Why did The Haven Assisted Living Facility go out of business?**

The Haven is one of a number of assisted living facilities that have ceased operations in the last five years. Other facilities that have shut down include the Pacifica (777 E 3900 S), Millcreek Meadows (1624 E 4500 S), All Seasons of Millcreek (3681 S 2300 E), and the Osmond (950 E 3300 S). This is part of a statewide and national trend of privately-owned assisted living facilities shutting down due to limited Medicaid reimbursements and a new focus on the part of Medicare and other insurance providers to pay for in-home care, as opposed to long-term care in a dedicated facility. Coupled with an end to CARES Act funding and increased labor costs, many assisted living facility providers are looking to sell facilities that are not profitable. According to the owner of the Haven, at least half of the residents at that facility were on Medicaid.

**18. What happened to the residents of the Haven?**

The owner of the Haven informed us that every resident received a thirty-day eviction notice once the sale of the property commenced. The owner negotiated with four other assisted living facilities in or near Millcreek that their residents could move to the new facility at the same rate that they paid at the Haven. The Haven also negotiated waivers for move-in fees and community fees, and paid for moving expenses as well. Most residents availed themselves of available space at nearby facilities.

**OTHER RESOURCES**

- 1. HUD/DOJ Joint Statement on Fair Housing
- 2. State Monitoring and Licensing Reports

