

Planning Commission Staff Report

File #1SI25- SI-RA-000537-2025

**Consideration of a Reasonable Accommodation
Request to Allow More than Four (4) Unrelated
Adults to Reside at a Residential Facility for
Persons with a Disability at 3547 W. Biathlon Cir. In
Taylorsville, Utah.**



Department of Community Development

Meeting Date:	July 22, 2025
Agenda Item:	(Above)
Subject Property Address:	3547 W. Biathlon Cir.
Applicant:	Hawa Mallay
Applicant Agent:	na
Author:	Terryne Bergeson, Planner I
Zoning Designation:	R-1-8
General Plan Designation:	Low Density Residential
Parcel #:	21084510060000
Applicable Ordinances:	13.03.030, 13.11.070, 13.20.050, 13.36.190
Agenda item #:	4

Attachments:

Exhibit A: Zoning Map
Exhibit B: General Plan Map
Exhibit C: Site Map
Exhibit D: Vicinity Map
Exhibit E: Owner Affidavit

Exhibit F: Letter of Intent, Section E Answers
Exhibit G: DSPD Certificate
Exhibit H: Site and Floor Plans
Exhibit I: Residential Support Program Rule
Exhibit J: State Requirements Policy Manual

Summary:

Hawa Mallay contacted the city for requirements to operate a residential facility for persons with a disability. The current process is to have owners providing this type of supportive housing to obtain the same single-family rental license as any other property owner in that zone to allow tenants to occupy the home. The single-family rental license allows rental of a single-family dwelling to one family (defined below). To provide housing for more adults than is permitted per the family definition, the owner may submit a reasonable accommodation request.

Adjacent Land Uses

North	South	East	West
R-1-8 Single-family rental	R-1-8 Single-family residence	R-1-8 Single-family residence	R-1-8 Single-family residence

Analysis

Land Development Code

The applicant has applied for the required single-family rental license, which allows a home to be occupied by one family or up to four unrelated adults, per the definition of family in [§13.36.070](#):

FAMILY:

- A. Groupings: A person living alone or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking and eating facilities...*
 - 2. Three (3) or fewer unrelated people; or¹...*
- B. Exceptions...*
 - 2. Any reasonable accommodation granted by the Taylorsville planning commission pertaining to a residential facility for elderly persons or persons with a disability.*

The applicant has been working with the Department of Health and Human Services and submitted a copy of the residential support certification (Ex G). Program-specific requirements can be reviewed in Exhibit I. Applicable standards are identified in the exhibit. Exhibit J is included to demonstrate the requirements for policies and procedures, which must be approved by the Department of Services for People with Disabilities (DSPD) prior to issuing the certificate. Residential support programs are certified by the DSPD and defined in Utah State Code [§ 26B-2-101](#) as follows:

- (49) (a) *"Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.*
- (b) *"Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:*

¹ Preempted by Utah State Code [§10-9a-505.5](#) which states that a municipality without a university may not limit occupancy to less than four.

- (i) emotional;
 - (ii) psychological;
 - (iii) developmental; or
 - (iv) behavioral.
- (c) *Treatment is not a necessary component of a residential support program.*
- (d) *"Residential support program" does not include:*
- (i) *a recovery residence; or*
 - (ii) *a program that provides residential services that are performed:*
 - (A) *exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or*
 - (B) *in a facility that serves fewer than four individuals.*

City-specific standards for the requested facility are outlined in the [§13.11.070](#) Residential Facilities for People with a Disability. Development standards in §13.11.070(F) state that the facility is subject to the same parking requirements as similar structures in that zone. The home has an attached three-car garage and a driveway with enough area for at least four vehicles, exceeding the minimum off-street parking requirements for a single-family home in this single-family residential zone.

§13.11.070(F) states that a number of residents exceeding family definition may occupy the property with the approval of a reasonable accommodation, considered and decided by the Planning Commission. The applicant has stated that she seeks to allow up to eight people to occupy the home so that she can provide housing for as many persons with disabilities as possible and provide the staff and support necessary for residents. The property meets state requirements, and the applicant received approval to house up to nine individuals, however the applicable section in Taylorsville Land Development Code limits the maximum number of residents to eight. The following sections provide criteria for reasonable accommodation requests:

13.11.070(G)(4) Prohibited Accommodations: The requested accommodation must relate to the use of the property so that it may be enjoyed as other similarly situated properties... An accommodation cannot be granted to... increase the profitability of the facility, or increase the maximum number of unrelated occupants above eight (8) plus two (2) additional persons acting as house parents or guardians.

13.39.190 REASONABLE ACCOMMODATION: *A change in a rule, policy, practice, or service necessary to afford a person equal opportunity to use and enjoy a dwelling. As used in this definition:*

A. "Reasonable" means a requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.

B. "Necessary" means the applicant must show that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice.

C. "Equal opportunity" means achieving equal results as between a person with a disability and a nondisabled person.

The Planning Commission should review business operation descriptions, floor plans, and state requirements to make a determination for the request to increase the number of unrelated adults from four (4) to eight (8).

Public Comment

This application does not require a public hearing.

Findings

1. Hawa Mallay is part owner of the subject property, located at 3547 W. Biathlon Cir.
2. The property is in the R-1-8 zone.
3. The applicant has submitted a single-family rental license and reasonable accommodation request application to operate a residential facility for persons with a disability.
4. A rental license has been approved and is on hold, pending a determination for this request.
5. A single-family rental license allows a single-family home to be rented to one family or up to four (4) unrelated adults.
6. A residential facility for persons with a disability may house more than four (4) unrelated adults upon approval of a request for a reasonable accommodation.
7. A reasonable accommodation request and supporting documentation has been submitted, requesting that the number of unrelated adults be increased to at least eight (8).
8. Section 13.11.070(G)(4) lists prohibited accommodations and states that no more than eight (8) unrelated individuals and two (2) staff members may occupy a residence.
9. The Planning Commission is the deciding body for such requests.

Staff Recommendation

Staff recommends that the Planning Commission approve the request for a reasonable accommodation and allow additional residents to occupy the residential facility. Staff recommends that up to eight (8) unrelated adults, the maximum per §13.11.070(G)(4), be permitted to occupy the residence.

Recommended Motion

I move that we approve File #1SI25 – SI-RA-000537-2025, request for a reasonable accommodation for a residential facility for persons with a disability at 3547 W. Biathlon Cir. to increase the number of unrelated adults allowed to occupy a residence from four (4) to eight (8).

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Staff Recommendation

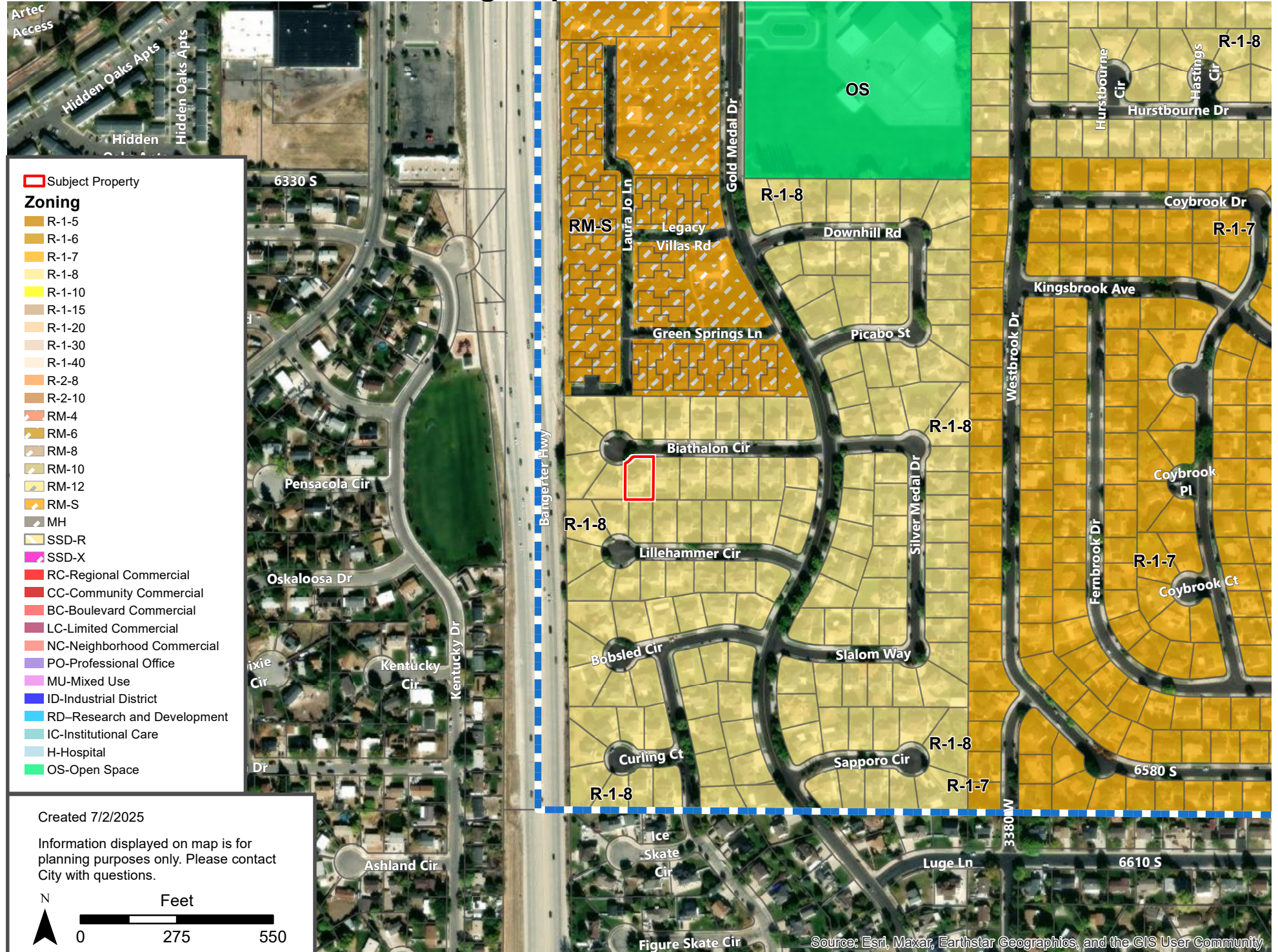
Staff recommends that the Planning Commission approve the request for a reasonable accommodation and allow additional residents to occupy the residential facility. Staff recommends that up to eight (8) unrelated adults, the maximum per §13.11.070(G)(4), be permitted to occupy the residence.

Recommended Motion

I move that we approve File #1SI25 – SI-RA-000537-2025, request for a reasonable accommodation for a residential facility for persons with a disability at 3547 W. Biathlon Cir. to increase the number of unrelated adults allowed to occupy a residence from four (4) to eight (8).

Exhibit A

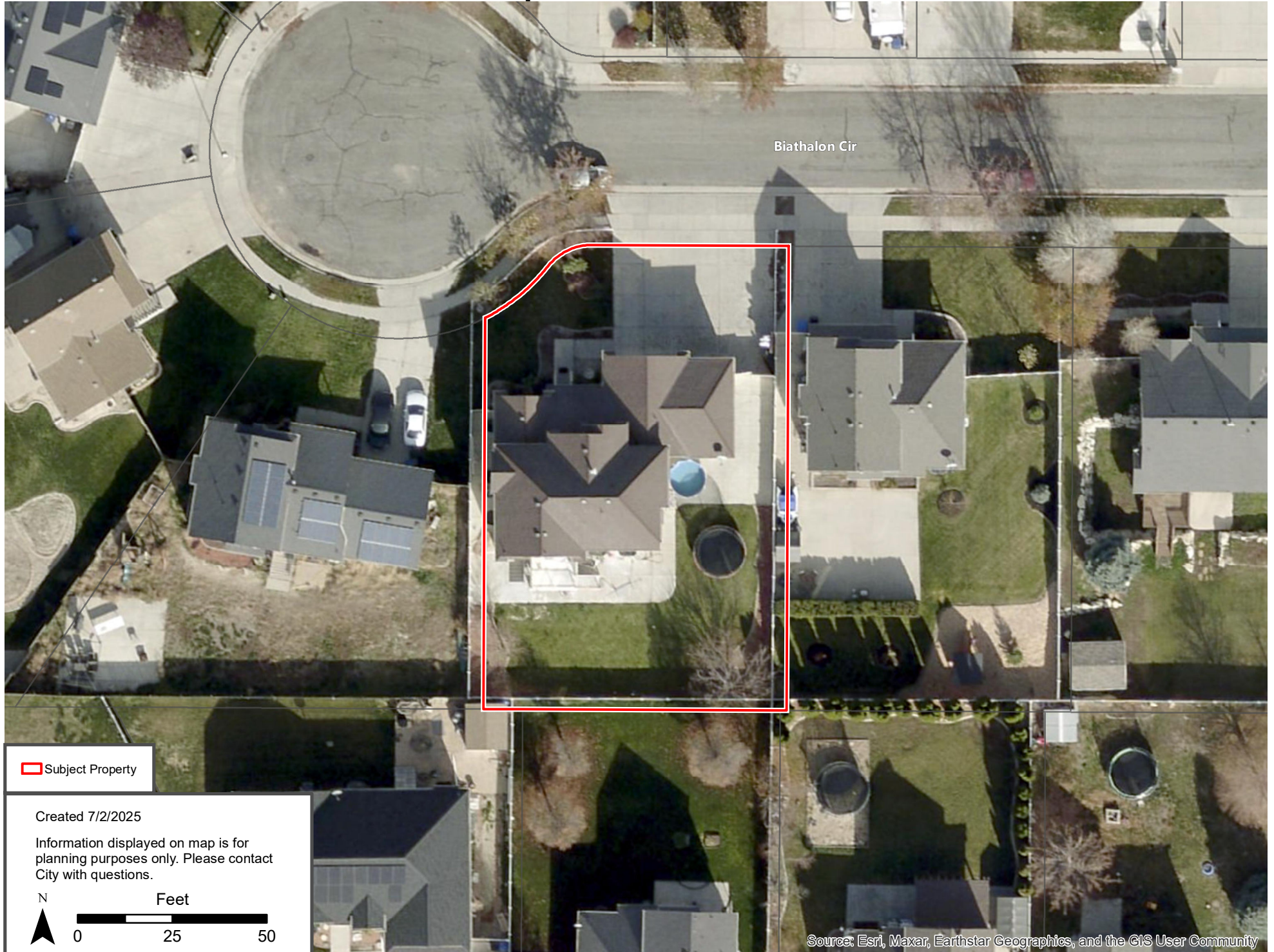
Zoning Map: 3547 W Biathlon Cir



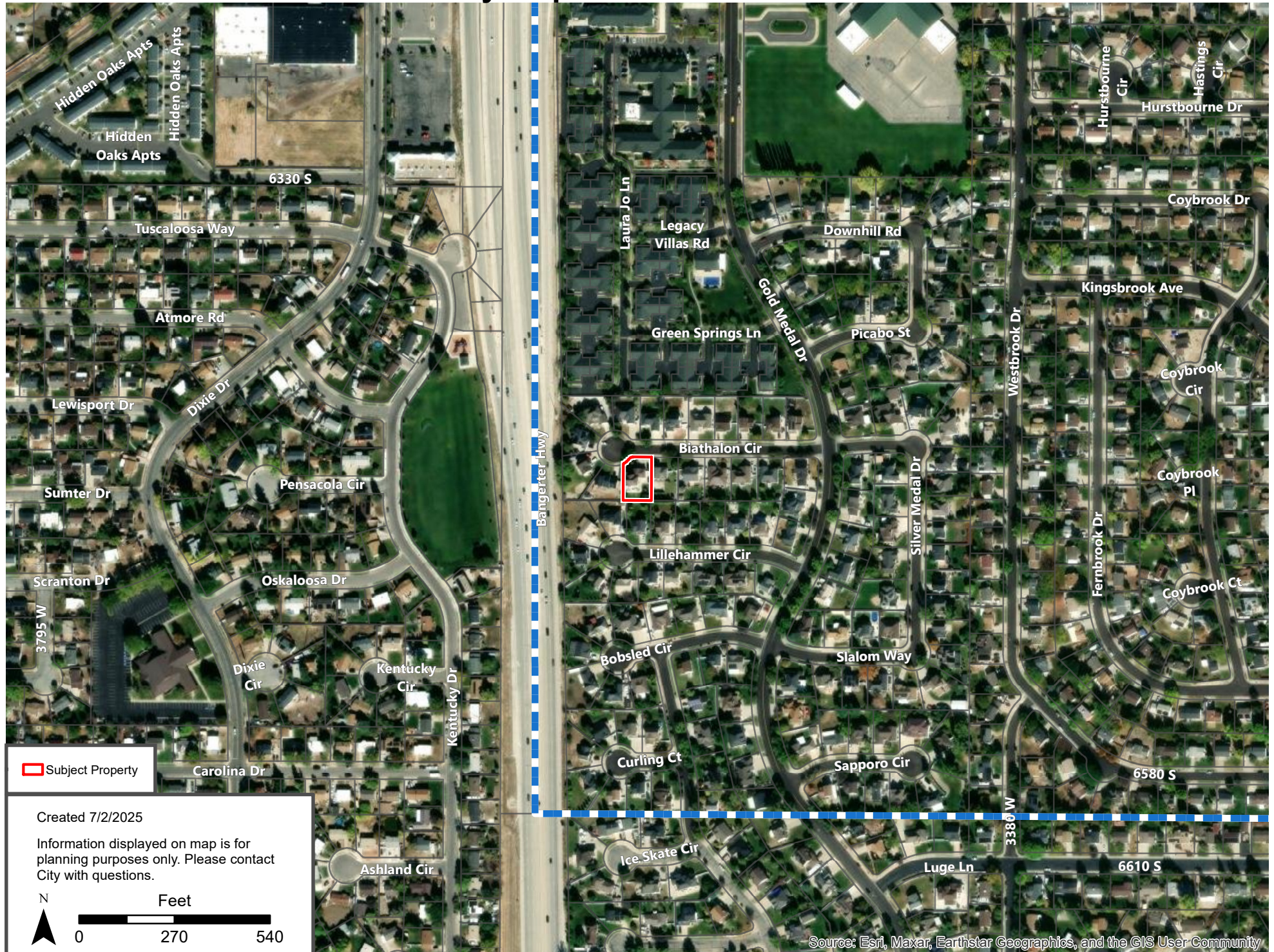
General Plan Map: 3547 W Biathlon Cir



Site Map: 3547 W Biathlon Cir



Vicinity Map: 3547 W Biathlon Cir



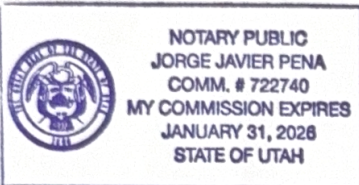
Property Owner's Affidavit

I (we) HAWA MALLAY, being first duly sworn, depose and say that I (we) am (are) the current owner of the property involved in this application; that I (we) have read the application and attached plans and other exhibits and are familiar with its contents; and that said contents are in all respects true and correct based upon my personal knowledge.

Owner's Signature

Owner's Signature (co-owner if applicable)

Subscribed and sworn to before me this 23th day of June, 2025.



Residing in West Jordan, Utah Notary Public

My commission expires: 01-31-2026

Agent Authorization

I (we), _____, the owner(s) of the real property located at _____, Taylorsville, Utah, do hereby appoint _____ as my (our) agent to represent me (us) with regard to this application affecting the above described real property located in the City of Taylorsville, and authorize _____ to appear on my (our) behalf before any City Board or Commission considering this application.

Owner's Signature

Owner's Signature (co-owner if applicable)

On the _____ day of _____, 20____, personally appeared before me _____ the signer(s) of the above Agent Authorization who duly acknowledged to me that they executed the same.

Residing in _____ Notary Public

My commission expires: _____

Letter of Intent

Starting Point Homes Services
3547 W Biathlon Cir, Taylorsville, UT 84129
Phone: 385-626-1027
Email: wamallay@yahoo.com

July 17, 2025

To Whom It May Concern,

I am writing this Letter of Intent to formally express our intent to operate a residential treatment program under Starting Point Homes Services, serving adults with intellectual and developmental disabilities.

Starting Point Homes Services is dedicated to delivering high-quality residential care that prioritizes independence, community integration, and personalized support. Our residential treatment program offers structured living arrangements and individualized support services that promote daily living skills, behavioral stability, and long-term community engagement.

The residential treatment program will be located at:
3547 W Biathlon Cir, Taylorsville, UT 84129

We will offer the following services:

- 24/7 residential support and supervision
- Behavior management and skill-building programs
- Life skills development
- Medication management and health monitoring
- Transportation and support for community inclusion
- Coordination with case managers, clinicians, and healthcare providers

This program is designed to serve adults with intellectual and developmental disabilities, including those with co-occurring behavioral or mental health needs, who require a structured and supportive residential environment.

We are applying for licensure under the category of:
Supported Living / Residential Treatment Program for Adults with Intellectual and Developmental Disabilities.

For any inquiries regarding the residential treatment program, please contact:
Hawa Wamallay
Phone: 385-626-1027
Email: wamallay@yahoo.com
Address: 8489 S 4770 W, West Jordan, UT 84088

Starting Point Homes Services is a newly established business. While we are in the early stages of operation, our mission is driven by a strong commitment to quality care, regulatory compliance, and positive outcomes for the individuals we serve. We are fully prepared to meet all requirements set forth by the Utah Department of Human Services and are ready to provide any additional documentation as required by administrative rule.

Thank you for your consideration.

Sincerely,
Hawa Mallay
Owner
Starting Point Homes Services, LLC

Specific type of facility (as defined by State regulations) and by which agency it is regulated.

Starting Point Homes Services is a licensed residential support program for 8+ unrelated adults, will be operating as a 24/7 human services business regulated by both the Office of Licensing and DSPD. Staffing is continuous and tailored, with open visiting policies, and residents' stays will range from transitional to long – term based on individual needs.

Number of residents, resident and nonresident staff, and expected/typical number of visitors per day.

Number Residents: at least 8 unrelated individuals.

Staffing: sufficient staff to meet individual needs and safety 24/7

Visitors: no fixed limit. Setting regulations guarantee individuals the freedom to have visitors at any time. Typically, homes might see a few families or service – provider visits daily.

Type of operation - business, family, eleemosynary, charitable, or beneficial organization.

Human services business

Supervision - hours and degree of supervision to be provided.

Supervision: 24/7, continuous supervision. Staff will be on duty day and night.

Degree: the level of supervision (e.g., personal care, medication management, behavioral support) depends on individuals' person – centered support plans and must comply with HCBS "settings Rule" standards (privacy, choice, integration).

Typical or average length of stay of the residents.

Transitional stays: a few months for skill – building or stabilization.

Long – term placements: many residents may remain in place for years if ongoing support is needed. No fixed maximum duration, stay are individualized.



Utah Department of
Health & Human Services
Licensing & Background Checks

CERTIFICATE FOR DSPD LICENSED RESIDENTIAL SUPPORT

Name of Facility: Starting Point Homes Services, LLC
Address: 3547 West Biathlon Circle. Taylorsville, UT 84129
Capacity Type: Adult
Total Approved Capacity: 9
Specialties: DSPD

License No: F25-117616
Date Issued: June 13, 2025
Date of Expiration: June 30, 2026

A handwritten signature in black ink, appearing to read "F. Schapira".

Florencia Schapira De Grout
Office of Licensing
Director

***Our Vision:** Quality health and safety services for
people in Utah!*



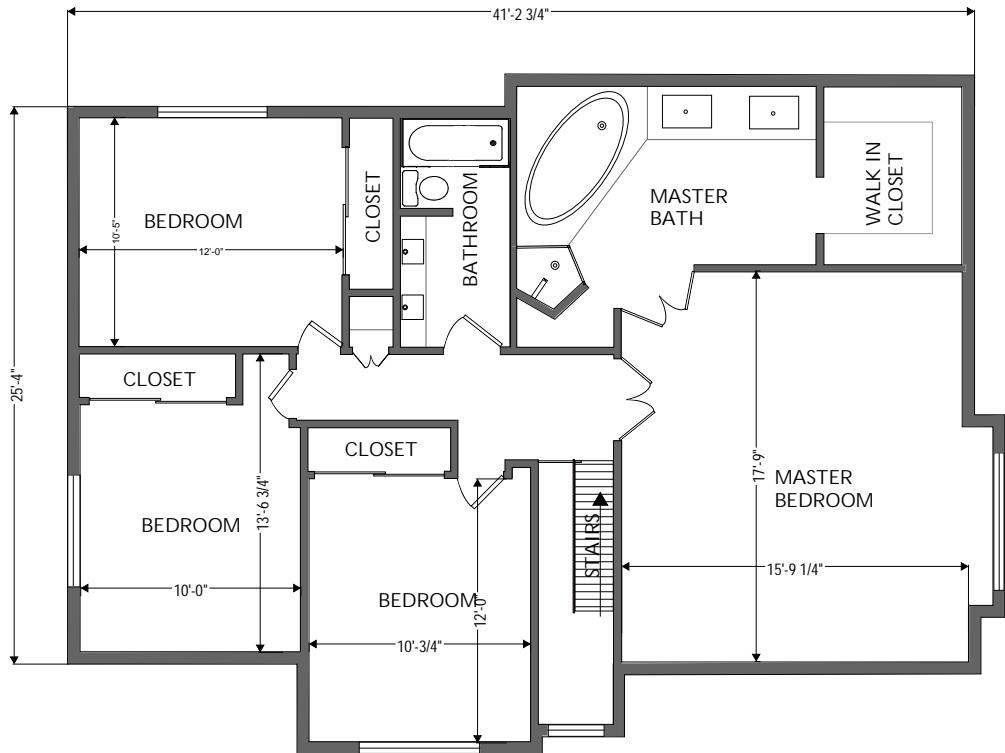
This document must be posted in a conspicuous place, and is not transferable to any other owner, director, or location.



3547 W BIATHLON CIR
TAYLORSVILLE UT

PROJECT NO:	----
DRAWN BY:	TLA
CHECKED BY:	TLA
DATE:	
SHEET:	01 OF 14

G1.00



UPPER LEVEL PLANS
SCALE: 3/8" = 1'-0"

McNEIL ENGINEERING

Economic and Sustainable Design, Professionals You Know and Trust

McNeil Engineering & Consulting & Landscape Architecture

Structural Engineering • Land Surveying & HDS

3547 W BIATHLON CIR - RESIDENCE PLANS

3547 W BIATHLON CIR
TAYLORSVILLE UT

REV	DATE	DESCRIPTION

PROJECT NO:

DRAWN BY: TLA

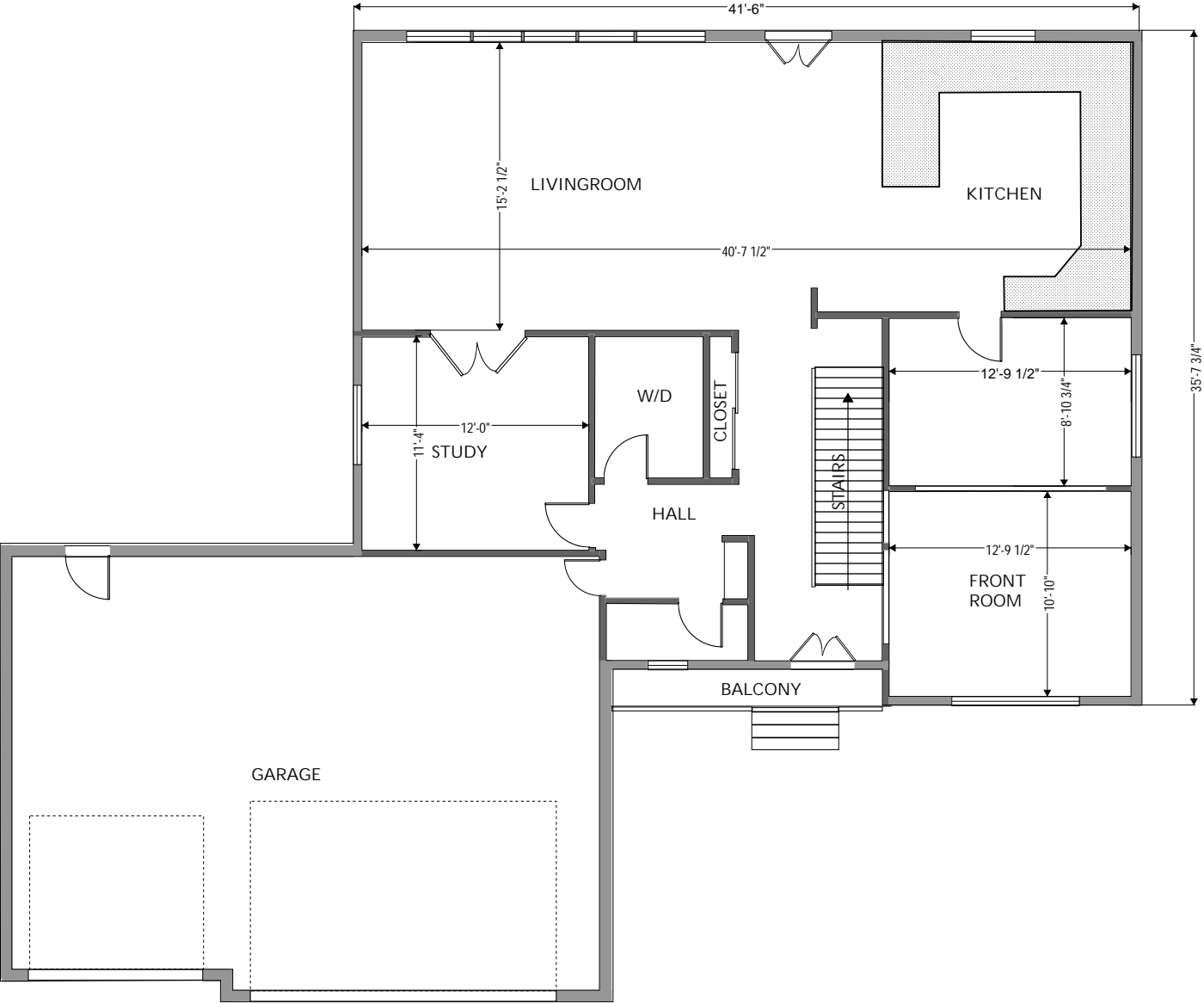
CHECKED BY: TLA

DATE:

SHEET: 01 OF 14

COVER SHEET


G1.00



MAIN LEVEL PLANS

SCALE: 3/8" = 1'-0"

S:\2020\fileA\2044\Consulting\Prod Draw\2044.3 - San Juan Site Plans.rvt



MCNEIL ENGINEERING
Economic and Sustainable Design, Professionals You Know and Trust
McNeil South Street Parkway Suite 200 Sandy Utah 84070 801.255.7700 mcneilengineering.com
Civil Engineering • Consulting & Landscape Architecture
Structural Engineering • Land Surveying & HDS

3547 W BIATHLON CIR - RESIDENCE PLANS

3547 W BIATHLON CIR
TAYLORSVILLE UT

REVISIONS	
REV	DESCRIPTION

PROJECT NO:

DRAWN BY: TLA

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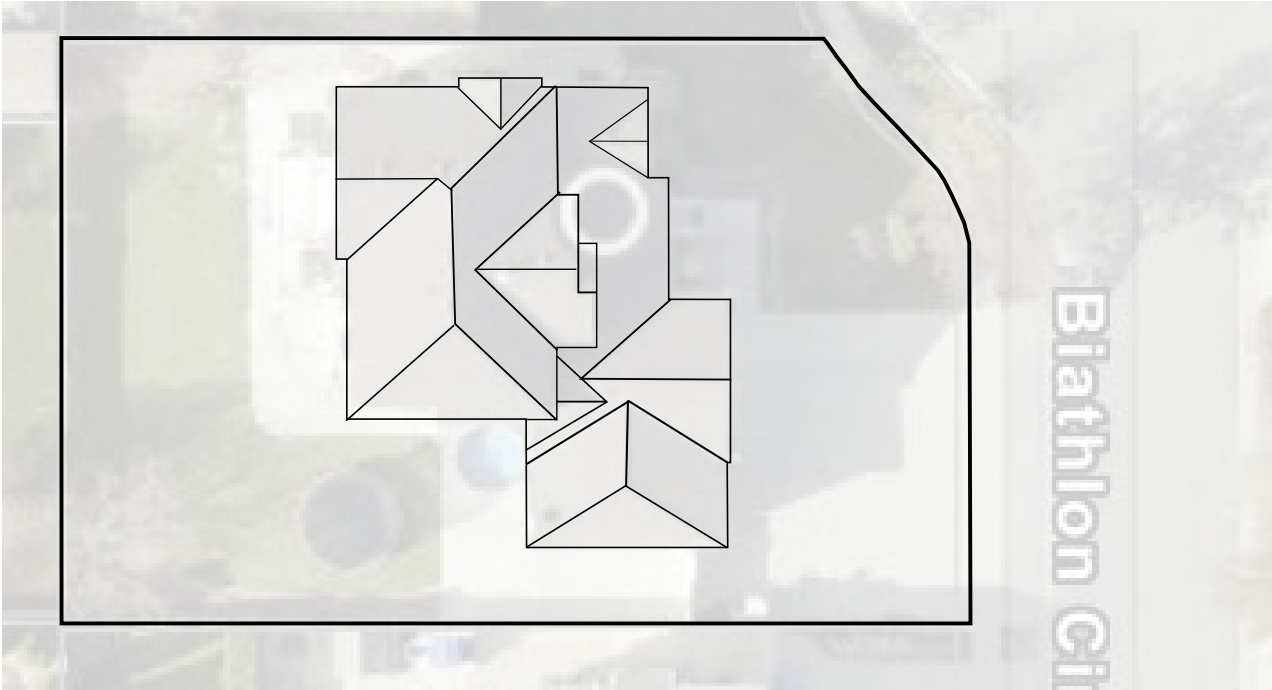
COVER SHEET

G1.00

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SITE PLAN

SCALE: 1/8" = 1'-0"



REVISIONS

REV	DATE	DESCRIPTION
1		
2		
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CHECKED BY:	TLA
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SHEET:	01 OF 14

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R501. Health and Human Services, Human Services Program Licensing.

R501-22. Residential Support Programs.

R501-22-1. Authority and Purpose.

This rule is authorized under Section 26B-2-104 and establishes basic health and safety standards for residential support programs. This rule is intended to supplement the general provisions required of each human services program in Rule R501-1.

R501-22-2. Definitions.

- (1) The terms used in this rule are defined in Sections 26B-2-101 and R501-1-3.
- (2) "Code Blue Event" is defined in Section 35A-16-701.
- (3) "Dangerous Weather Conditions" means any condition that warrants a public warning or alert by the National Weather Service.
- (4) "Emergency homeless shelter" means any facility that has a primary purpose of providing a temporary shelter for those experiencing homelessness and does not require each occupant to sign a lease or occupancy agreement.
- (5) "Receiving center" means any facility that has received written office approval to allow short-term residential support. A receiving center is not a secure or lock-down facility.
- (6) "Settings Final Rule" is defined in Subsection R501-1-3(40).
- (7) "Temporary Homeless Youth Shelter" is defined in Section 80-5-102.

R501-22-3. Administration.

- (1) The licensee may offer treatment through referrals or within the agency by voluntary client participation.
- (2) The licensee that offers treatment shall obtain the appropriate categorical department license for that treatment.
- (3) The licensee serving an individual experiencing homelessness in a setting with a contracted service provider shall identify each key decision maker and service provider that is associated with the license application and accountable for compliance with licensing rules within the licensed setting.
- (4) Residential support may not require treatment as a condition of admission.
- (5) The licensee shall provide evidence of ongoing coordination with the local health authorities regarding managing communicable diseases within the licensed setting.
- (6) The licensee shall inform staff regarding:
 - (a) various types of communicable diseases;
 - (b) recognizing signs and symptoms of communicable diseases; and
 - (c) steps to take when a potential disease is identified or an outbreak occurs.

R501-22-4. Staffing.

- (1) The licensee is not required to provide 24-hour supervision unless that program is an emergency homeless shelter or a domestic violence shelter serving adults.
- (2) The licensee shall establish safe practices that identify each situation requiring medical attention and how the program will meet the client's medical needs.
- (3) The licensee shall conduct eligible background clearance and document required training completion for each student of volunteer.
 - (a) A volunteer or student who provides care without a paid staff present in any emergency homeless shelter or domestic violence shelter shall have direct communication access to designated staff and an eligible background screening before any unsupervised client access.
 - (b) The licensee shall inform each volunteer or student verbally and in writing of program objectives and the scope of service.

R501-22-5. Physical Facility.

- (1) Except as otherwise provided in this section, each licensee shall have at least one bathroom for every ten clients.
- (2) Each domestic violence shelter and emergency homeless shelter licensee may allow family members to share a bathroom. Where a bathroom is shared by more than one family or by children over the age of eight, either the child's parent or program staff shall ensure that client privacy is maintained.
- (3) Each emergency homeless shelter may exceed the bathroom ratio set forth in Subsection R501-22-5(1) if:
 - (a) each bathroom ratio is approved by either the local authority that determines capacity or the department;
 - (b) each bathroom ratio is specifically designated in adult-only nightly shelter settings;
 - (c) each bathroom is inspected, cleaned, and re-stocked daily and as needed;
 - (d) the licensee ensures individual privacy in bathing and toileting;
 - (e) each individual with disabilities has access to at least one locking bathroom or stall; and
 - (f) the licensee accommodates each parent's needs for changing, toileting, and bathing their children.
- (4) The licensee shall develop safe practices to identify how to manage emergency overflow when capacity has been reached during dangerous weather conditions.
- (5) The licensee shall develop safe practices that allow and encourage each client to have clean linen at least weekly.
- (6) The emergency homeless licensee may have portable beds, cots, or mats to accommodate fluctuating client volume.

(7) Except as outlined in Subsection R501-22-5(13), the licensee shall provide clean bedding that is laundered at least weekly or as needed for each client.

(8) A family may share bedroom space.

(9) The licensee shall comply with the following bedroom standards for domestic violence shelters, family support centers, temporary homeless youth shelters, emergency homeless family shelters, and children's shelters:

(a) there is at least 40 square feet per client in a multiple occupant bedroom, not counting storage space or one crib for children under two years old if the crib does not inhibit access to and from the room;

(b) roll away and hide-a-beds are only used when the 40 square foot space requirement is maintained; and

(c) when a bedroom is shared by more than one family, program staff make arrangements to ensure client privacy;

(10) The temporary youth shelter licensee shall ensure that children in a temporary youth shelter with their own children have at least 40 square feet per person, excluding storage space, in a separately enclosed bedroom that houses only children that have their own children.

(11) The licensee shall comply with the following bedroom standards for emergency homeless shelters, temporary homeless youth shelters, and receiving centers:

(a) dormitory style bedrooms meet the square footage and capacity determinations made by the local fire authority.

(b) capacity determinations include any staff present in the facility;

(c) if the local fire authority does not identify capacity, licensing square footage requirements apply; and

(d) there is a safe practice to identify how to manage overflow when capacity has been reached.

(12) Each licensee shall outline safe practices regarding:

(a) rules and guidelines for each family or mixed gender sharing the same dormitory space or bedroom, including each individualized bedroom assignment;

(b) securing personal belongings;

(c) responsibility for each client supervising the client's own children;

(d) conflict resolution;

(e) nuisance and disruptive behavior;

(f) housekeeping responsibilities;

(g) daily schedules;

(h) prohibited items; and

(i) search policy.

(14) Each licensee that requires a client to provide the client's own laundry supplies and locate a laundromat for laundering shall have a safe practice to assist each client on a limited basis when the client cannot provide the client's laundry supplies and locate a laundromat.

R501-22-6. Specialized Services for Programs Serving Clients With Substance Use Disorders.

(1) Each licensee may not admit anyone who is currently experiencing convulsions, shock, delirium tremens, unconsciousness, or is in a coma.

(2) Each licensee serving clients with substance use disorder shall provide evidence of ongoing coordination with the local health authorities regarding managing communicable diseases within the licensed setting.

(3) The licensee shall screen staff and clients for risk of tuberculosis.

(4) A licensed substance abuse treatment program shall complete the National Survey of Substance Abuse Treatment annually.

R501-22-7. Specialized Services for Programs Serving Children.

(1) A licensee serving only child populations is considered congregate care as defined in Section 26B-2-101 and shall adhere to each requirement of Sections 26B-2-120, 26B-2-123, and 26B-2-124 for background clearances, policy development, and behavior management practices.

(2) Congregate care rules under Title R501 apply to youth programs that retain clients past the age of 18 to complete treatment or education.

(3) The licensee shall provide clean and safe age appropriate toys for children.

(4) The licensee shall provide an outdoor play area enclosed with a five-foot safety fence or enclosure as otherwise required by local ordinances.

(5) Only a custodial parent, legal guardian, or person designated in writing may remove any child from the program.

(6) The licensee shall provide adequate staff to supervise children or be available to monitor parents supervising their own children.

(7) The licensee shall comply as required with Title 80, Chapter 2, Part 9, the Interstate Compact on Placement of Children (ICPC), including ensuring the disruption plan is followed when an out of state minor presents at a shelter as a result of a failed ICPC placement in a Utah residential setting.

R501-22-8. Specialized Services for Domestic Violence Shelters.

(1) The licensee shall document that shelter rules, reason for termination and rights to confidentiality are provided to each client, verbally and in writing.

- (2) Each parent is responsible for supervising their own child while at the shelter. If a parent is required to be away from the shelter or involved in shelter activities without their child, the parent shall arrange for appropriate childcare services.
- (3) The licensee shall ensure that each domestic violence shelter action plan documents and includes:
 - (a) a review with each victim regarding danger and lethality and the level of the victim's risk of safety assessment;
 - (b) a review of the victim's safety plan with each victim;
 - (c) a review of the procedure for a protective order and a referral for the victim to the appropriate agency or clerk of the court authorized to issue the protective order; and
 - (d) a review of supportive services for each client, including medical care, self-sufficiency, day care, legal assistance, financial assistance, and housing assistance.
- (4) The licensee shall assist with connecting the client to identified resources.
- (5) The licensee shall make and document a referral when indicated in the client record for victim treatment, psychiatric consultation, drug and alcohol treatment, or other allied service.
- (6) The licensee shall ensure that shelter staff completing an action plan are supervised by an experienced and trained domestic violence provider.

R501-22-9. Specialized Services for Temporary Homeless Youth Shelters.

- (1) Each licensee shall provide a staff ratio of at least one direct care staff for every ten children.
- (2) Except as outlined in Subsection R501-22-9(4), the licensee may only admit individuals under the age of 18.
- (3) The licensee may admit a child with the child's own biological child.
- (4) The licensee may provide shelter to an individual that is older than 18 but younger than 21 under the following conditions:
 - (a) each individual is placed in age and gender appropriate sleeping quarters away from the minor population;
 - (b) each individual remains in the program voluntarily and is made aware of program rules and the repercussions of criminal behavior as an adult;
 - (c) a ratio of at least one staff to every ten clients is maintained;
 - (d) children and individuals are assessed by a facility staff member that is a mental health therapist, as described in Section 58-60-102, to determine whether the individual is at imminent risk of harming themselves or others; and
 - (e) individuals that are assessed as at imminent risk of harm to self or others are referred to a program qualified to serve them.
- (5) The licensee shall document and maintain individualized assessments of risk of harm and justification for each client admitted in the youth setting.
- (6) The licensee shall comply with Section 80-5-601 regarding mandatory reporting requirements for harboring a runaway.
- (7) The licensee shall comply with Section 26B-2-116 to coordinate educational requirements for each individual.
- (8) The licensee shall coordinate and transition each client to a more appropriate setting when the client cannot remain in the youth setting.

R501-22-10. Specialized Services for Emergency Homeless Shelters.

- (1) An emergency shelter licensee shall prioritize the safety of those needing services and emphasize transitioning into a more permanent housing setting.
- (2) An emergency homeless shelter licensee shall ensure that no less than two direct care staff are always present and available and maintain a ratio of no fewer than one staff present for every 40 clients during weekday daytime hours.
- (3) An emergency homeless shelter may operate above staffing ratios during dangerous weather conditions, on weekends, and during sleeping hours if:
 - (a) the program has a documented chain of command for on-call availability;
 - (b) the program has a surveillance camera system;
 - (c) the program has an emergency radio onsite and each staff on-duty are trained regarding how and when it is to be used; or
 - (d) the program identifies and can rely upon other means of back up support in case of emergency.
- (4) In accordance with Subsections 35A-16-703(1), (2), and (3), an emergency homeless shelter licensee operating in a county where a code blue alert is in effect may increase capacity by 35% when:
 - (a) fire code and building code capacities permit the increase;
 - (b) procedures are implemented for expediting intake; and
 - (c) procedures are implemented for only denying entry if the building capacity is at maximum or the individual poses a risk to the population.
- (5) Each emergency homeless shelter shall require each adult resident to sign an agreement form at admission that outlines the following:
 - (a) visitors are allowed on premises to assist with housing, food stamps, assessments, religious, social and other client-specific needs;
 - (b) participation in any meetings or groups with these visitors is voluntary;
 - (c) each client signature on the form and voluntary participation in the visitation constitutes the client's invitation to the visitors in the department-licensed setting; and

- (d) each client must sign the agreement before participation in any voluntary services offered onsite.
- (6) Visitors as outlined in Subsection R501-22-10(5) do not include staff in the homeless shelter setting.
- (7) The emergency homeless shelter licensee shall maintain the following information regarding each client or have documented reasons why the information is not obtainable:
 - (a) name;
 - (b) date of birth;
 - (c) race;
 - (d) ethnicity;
 - (e) gender;
 - (f) veteran status;
 - (g) disabling condition;
 - (h) start date;
 - (i) exit date;
 - (j) destination;
 - (k) relationship to head of household;
 - (l) service location;
 - (m) prior living situation;
 - (n) case management log and service plan, where applicable;
 - (o) information that could affect health, safety, or well-being of the client, including medication needs;
 - (p) documentation that is updated at 90-day intervals to include each service and contact; and
 - (q) service plans that emphasize self-sufficiency and identify and refer to applicable sources.
- (8) The shelter maintains the documentation listed in Subsection (7) for re-opening the client file, if the client returns up to 30 days past the last shelter stay, with the exception of single night stays.

R501-22-11. Specialized Services for Programs Serving Clients of the Division of Services for People with Disabilities.

- (1) In accordance with the federal Home and Community-Based Services (HCBS) Settings Final Rule, a program serving clients on the HCBS Waiver shall complete and adhere to the residential attestation agreement form and self-assessment survey for each licensed site.
- (2) The licensee shall maintain current copies of the residential attestation agreement form and self-assessment survey forms in program documentation.
- (3) In the event of a conflict between this rule and the Settings Final Rule the Settings Final Rule shall prevail.
- (4) The office shall report any noncompliance of the Settings Final Rule to the DHHS Division of Continuous Quality and Improvement for contract compliance consideration.

R501-22-12. Specialized Services for Receiving Centers.

- (1) Each receiving center may be licensed under multiple license types to assess and triage immediate client needs.
- (2) A receiving center licensee may offer short-term residential support that is intended to mitigate the initial identified problem, stabilize each client, and return each client to the community as quickly and safely as possible.
- (3) A receiving center licensee shall outline safe practices in consumer agreements regarding how each population will be separated and maintained and the circumstances when interactions between populations are permitted.
- (4) A receiving center licensee shall include individualized clinical documentation outlining the ongoing need and anticipated time frame for discharge for each instance that a client's stay lasts longer than 30 days.
- (5) A receiving center licensee shall ensure that placement in a receiving center is a voluntary alternative that the client may choose instead of a more restrictive placement.
- (6) A receiving center may not mandate treatment as a condition to residence.

R501-22-13. Exception to Licensure.

Subsection 35A-16-703(4) exempts private, nonprofit or government entities from licensing requirements to provide emergency homeless shelter services during, and up to 7 days following, a code blue event as long as the site is compliant with local fire and building codes.

R501-22-14. Compliance.

A program operating within the scope of this rule shall have 60 days to come into compliance with this rule.

KEY: human services, licensing

Date of Last Change: January 22, 2024

Notice of Continuation: February 28, 2025

Authorizing, and Implemented or Interpreted Law: 26B-2-104

All DHHS 91172 potential contracts must submit a policy and procedure manual to the Office of Service Review (OSR) that includes, at a minimum, the following elements. Please develop your own policy and procedure manual for your agency. Copy and pasting from the DHHS 91172 scope of work will not be accepted as a policy manual.

Policy manuals must comply with Federal Settings Rule (<https://medicaid.utah.gov/ltc/hcbstransition/>)

Please ensure policies included in your company manual do not violate settings rule. Client rights and policy and procedure that are written specific to Office of Licensing (OL) statutes for kids or youth in DHHS custody do not meet standard for settings rule (seclusion, time out, proctor and foster care, all medications locked).

The following sections must be included in your policy and procedure manual for review by OSR:

Person centered services

1. Policies indicating that services provided are person-centered
2. Person centered planning team involvement
3. How individual in services' input is considered and utilized as part of service design and delivery

Health and safety support

1. Process for ensuring health and safety of the person
2. Process for tracking and monitoring health appointments
3. Process for medication management
 - a. Determining level of support for medication self-administration
 - b. Tracking of medications
 - c. Packaging of medication
 - d. Storage of medication in compliance with the settings rule (locked medication requires an approved human rights restriction)
 - e. Disposal of medication
 - f. Transfer of medication to another provider, school, etc.
 - g. Provisions to report or address the discovery of any prescribed medication errors

- h. Enhanced process for monitoring the dispensing, tracking, and written documentation in Person's medical data sheet of Schedule II- IV medication under Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, U.S.C. Title 21, Chapter 13, Subchapter I, Part I, Part B § 812, such as Benzodiazepines, Opiates, and PRN medication. The enhanced process for monitoring must include provisions for ensuring the medication count is accurate, and for theft and abuse prevention.
- i. If the Contractor will support Persons in their self-directed, self-administration of prescription medication, the Contractor shall ensure that the Person's record includes: the name and purpose of each medication the Person is taking; instruction regarding routes of administration and dosage for each medication the Person is taking; medication adversities, side effects, and indications of an effect or adverse reaction for each medication, including if there is a possibility that medication taken may contribute to swallowing difficulties or enhance the prospects of choking; and documentation of compliance with medication administration requirements.

Operating policies

- 1. Organization chart requirements with full names and job titles for agency representatives;
- 2. Clearly defined staff and supervisory responsibilities during all hours of operation;
- 3. If providing transportation, provisions that specify all transportation requirements pursuant to this contract and how compliance will be ensured;
- 4. Compliance with settings regarding no logos on company vehicles and no individual or staff uniforms;
- 5. Provisions for the receipt and resolution of staff grievances and Persons grievances that comply with this contract;
- 6. Emergency procedures for handling the injury, illness, or death of a Person and instructions about when and how to notify necessary individuals, including when and how to notify the DSPD Waiver managers according to fatality, critical incident reports, and critical incident investigations sections of this contract;
- 7. If the Contractor manages a Person's personal finances, provisions for the management of each Person's personal finances including: compliance with all Person's personal finances requirements pursuant to this contract; how the Contractor will ensure compliance with all current regulation and policies of the Social Security Administration; and ensuring Persons do not continuously owe the Contractor money due to emergency situations; (Human rights restriction is required when a Person's access to their money is limited).
- 8. Clearly defined intake and discharge processes.

9. Lease agreements (RHS) and room and board agreements (HHS). These agreements must be standard for the city/area with nothing extra that would violate the Federal Settings Rule included as “house rules”.

Staff training

1. Have a process in place for tracking and documenting training.
 - a. The Contractor shall include written documentation of each staff’s successful completion of training in each required training area pursuant to this contract;
 - b. Training system shall ensure a process allows for external verification of each staff’s successful training completion including how competency is established;
2. Ensure volunteers comply with all staff qualifications and requirements;
 - a. A volunteer working in a volunteer position may supplement regular staff, but must not replace paid staff hours;
 - b. Written permission from the Person’s legal representative must be obtained prior to a volunteer taking a Person overnight.

Incident reporting

1. A process for monitoring for the occurrence, reporting, and mitigation of incidents that affect the health and safety of Persons. (This process has to be done through the USTEPS/UPI system.)
2. Timelines for reporting incident reports that match DHHS 91172 scope of work
3. Process to ensure compliance with the mandatory reporting requirements of Utah Code §62A-3-305 and §62A-4a-403 by immediately notifying DHHS, Adult Protective Services intake, Child Protective Services intake, or the nearest law enforcement agency of actual or suspected incidents of abuse, neglect, exploitation, or maltreatment of Persons.
4. Process in place to ensure proper license/certification is obtained and maintained per DHHS91172 scope of work services code expectations (RHS, DSG, PPS, HHS, etc.).

Human rights plan/committee process/procedures

1. Procedures for training Persons and staff on Person's rights;
2. Process is defined for how the individuals they serve are trained on their rights.
3. Process is defined for how staff receive training on an individual's rights.
4. Procedures for prevention of abuse and rights violations;
5. Plan identifies how they review for potential abuse, rights violations.
6. Recommend including mandatory reporting procedures/Code of Conduct.
7. Processes for restricting rights when necessary that includes:
 - a. Justification for the rights restriction
 - b. A specific and individualized assessed need.
 - c. The positive interventions and supports used prior to any modifications to the PCSP.
 - d. Less intrusive methods of meeting the need that have been tried but did not work.
 - e. A clear description of the condition that is directly proportionate to the specific assessed need.
 - f. A regular collection and review of data to measure the ongoing effectiveness of the modification.
 - g. Established time limits for periodic reviews to determine if the modification is still necessary or can be terminated (must be at least annually).
 - h. Informed consent of the individual.
 - i. An assurance that interventions and supports will cause no harm to the individual
 - j. What is the teaching strategy/how will the person gain back the right
8. Process to review supports that have high risk for rights violations;
9. High risk areas generally include payee supports, behavior interventions, and locked personal belongings (including medication, access to money)
10. Processes need to adhere to DSPD Rule 539-3 Rights and Protections
 - a. Note that Rule 539-3-7 Privacy. *Electronic surveillance needs secondary approval by DSPD's Division Human Rights Council prior to implementation.
11. Processes need to adhere to DSPD Rule 539-4 Behavior Interventions.
 - a. R539-4-5 (3) Any Level II or Level III intervention must also have Provider HRC approval.
12. Responsibilities of the Contractor's Human Rights Committee (HRC):
 - a. at least three members, one of which cannot be employed by the agency;

- b. review of of rights issues related to the supports the Contractor provides,
- c. recommendations to the Person and the Person's team regarding the Person's human rights.
- d. The Contractor's Human Rights Committee shall maintain minutes of its proceedings, and shall disclose those minutes to any state or federal auditor, reviewer, or DHHS representative within 24 hours of request
- e. Outline of how the Human Rights Committee will function (recommend voting procedures, minimum number of voting members, emergency approval process, types of people that will sit on the Committee i.e. community member, person with a disability, nurse, behaviorist, etc.)
- f. Provisions for all Persons served by the Contractor to have the right to request a review by the Contractor's Human Rights Committee concerning supports or services to the Person; and
- g. All persons in services should have access to the Human Rights Committee
- h. Person/Guardian must give informed consent prior to implementation
- i. Appeals process to Provider HRC
- j. Recommend adding appeals to DHRC to include contact information (DHRC Flyer)
- k. Provisions to ensure that the Contractor will support any court ordered human rights restrictions without violating any other of the Person's human rights unless authorized by the Contractor's Human Rights Committee. All staff have to follow the court order for the person. However, just because a person has a court order in place does not assume the person needs additional restrictions.
- l. The provider needs to assure they are not implementing unapproved restrictions in addition without proper approval through the HRC.

Internal quality monitoring plan

1. An agency self-assessment or quality assurance process for DHHS funded services;
2. An established method for responding to and resolving concerns identified in the Contractor's internal monitoring and feedback processes.
3. A process for responding to corrective action requirements; (Timeframes need to be in compliance with DHHS91172 scope of work expectations.)
4. Processes can be externally validated (i.e. efforts need to be documented);
5. A process for monitoring and updating DACS

Emergency management and business continuity plan

1. Evacuation procedures for each physical address being utilized by the contractor;
2. Temporary or alternate living arrangements, including arrangements for isolation or quarantine;
3. Maintenance, inspection, and replenishment of vital supplies, including food, water, clothing, first aid supplies, and other medical necessities, including client medications, and the supplies necessary for infection control or protection from hazardous materials, etc.
4. Communications (with Contractor staff, appropriate governmental agencies, and client's families); etc. (An out of state contact is recommended as best practice)
5. Transportation;
6. Recovery and maintenance of client records; (Off site back-ups are recommended as best practice)
7. Policies and procedures that:
 - a. ensure maintenance of required staffing ratios;
 - b. address both leave for, and the recall of, Contractor's employees unable to work for extended periods due to illness during periods of declared pandemic; and
 - c. ensure the timely discharge of the Contractor's financial obligations, including payroll.