

COTTONWOOD HEIGHTS CITY ADMINISTRATIVE HEARING AGENDA

March 6, 2024



Notice is hereby given that the **Cottonwood Heights Hearing Officer** will convene on **Wednesday March 6 2024**, at **Cottonwood Heights City Hall** (2277 E. Bengal Blvd., Cottonwood Heights, UT 84121) for an **Administrative Hearing Meeting**.

The meeting will begin at **12:00 p.m.** in the City Hall Room 5 (Council Chambers).

12:00 p.m. ADMINISTRATIVE HEARING MEETING

1.0 Business Items

1.1 Project CUP-24-001

Request from Riley and Daniella Thomasson for conditional use approval of a short-term rental at 8212 S. Wasatch Grove Ln.

1.2 Project CUP-24-002

Request from Paz Ortiz for conditional use approval of a short-term rental at 3569 E. Lone Brook Ln.

1.3 Project CUP-24-003

Request from Brad and Chari Carter for an amendment to a previously issued conditional use permit (CUP-23-016, issued on January 3, 2024) for a six-foot four-inch fence along the north property line of 7245 S. Dorset Cir

2.0 Consent Agenda

2.1 Approval of Administrative Hearing Officer Minutes from March 6, 2024

(The Administrative Hearing Officer will approve the minutes of the March 6, 2024 meeting after the following process is met. The City Recorder will prepare the minutes and email them to the Hearing Officer. The Hearing Officer will have five days to review the minutes and provide any changes to the Recorder. If, after five days there are no changes, the minutes will stand approved. If there are changes, the process will be followed until the changes are made and the hearing officer is in agreement, at which time the minutes shall be deemed approved.)

3.0 Adjourn

Meeting Procedures

Items will generally be considered in the following order:

1. Staff Presentation
2. Applicant Presentation
3. Open Public Hearing (if item has been noticed for public hearing). Each speaker during the public hearing will be limited to three minutes.
4. Close Public Hearing
5. Administrative Hearing Officer Deliberation
6. Administrative Hearing Officer Decision

Administrative Hearing applications may be tabled if: 1) Additional information is needed in order to act on the item; OR 2) The Hearing Officer feels there are unresolved issues that may need further attention before the Officer is ready to make a decision. The Hearing Officer may carry over agenda items to the next regularly scheduled meeting.

Submission of Written Public Comment

Written comments on any agenda item should be received by the Cottonwood Heights Community and Economic Development Department no later than **12:00 p.m. MST on Tuesday, March 5, 2024, the day prior to the meeting**. Comments should be emailed to Planning@ch.utah.gov. After the public hearing has been closed, the Community and Economic Development Department will not accept any additional written or verbal comments on the application.

Notice of Compliance with the Americans with Disabilities Act (ADA)

In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify the City Recorder at (801) 944-7021 at least 24 hours prior to the meeting. TDD number is (801) 270-2425 or call Relay Utah at #711.

Confirmation of Public Notice

On Friday, February 23, 2024, a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Cottonwood Heights City Offices. The agenda was also posted on the City's website at www.cottonwoodheights.utah.gov and the Utah public notice website at <http://pmn.utah.gov>.

DATED THIS 1st DAY OF March, 2024

Attest: Paula Melgar, City Recorder

COTTONWOOD HEIGHTS CITY ARCHITECTURAL REVIEW COMMISSION STAFF REPORT



March 6, 2024

Summary

Project #:

CUP-24-001

Subject Property:

8212 S Wasatch Grove Ln.

Action Requested:

Conditional Use Permit
(Short-Term Rental)

Owner:

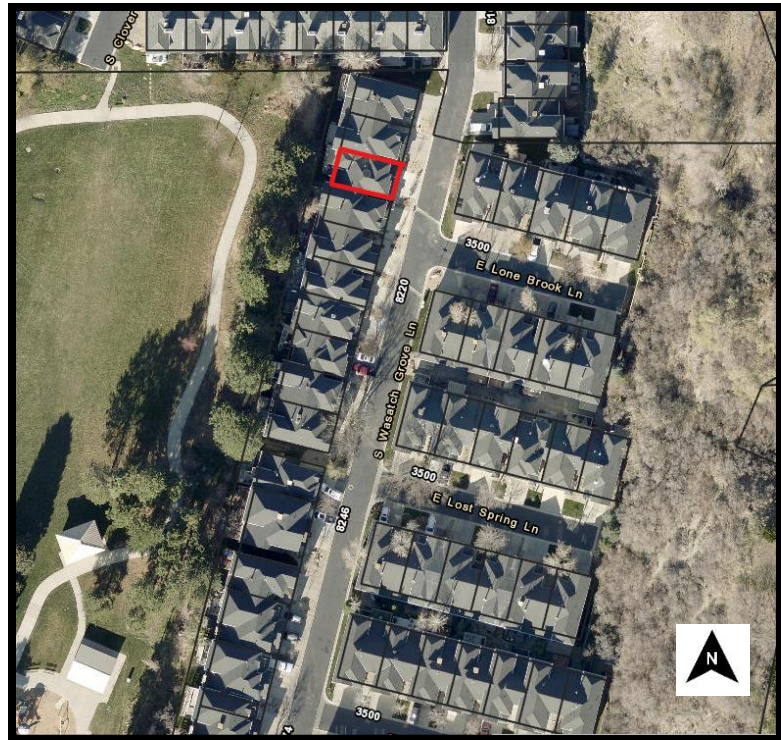
Riley and Daniella Thomasson

Applicant:

Riley and Daniella Thomasson

Recommendation:

Approve, with conditions



Aerial View

Analysis

Adjacent Zoning & Land Use

- **NORTH:** R-2-8 Multi-Family Residential (Oaks at Wasatch Place A PUD)
- **SOUTH:** R-2-8 Multi-Family Residential (Top of the World 5)
- **EAST:** R-1-8 Single-Family Residential (Top of the World 3)
- **WEST:** PF Public Facilities (Golden Hills Park)

Staff Analysis

The unit contains three bedrooms. The applicant is proposing to accommodate up to 10 guests at a time. The unit includes two car garage and a driveway in front of the garages for parking. The property is located in the R-2-8 (Multi-Family Residential) Zone. Short-term rentals may be approved as a conditional use in the R-2-8 Zone, provided that the property is part of a planned unit development or condominium project that contains at least eight units and fronts on a private street. The subject property is a part of the Oaks at Wasatch PUD B, which contains 57 units. The property fronts Wasatch Grove Ln., which is a private street.

Recommended Conditions of Approval

Staff recommends approval, with conditions as outlined below:

1. The applicant must complete necessary steps to obtain a business license through the city of Cottonwood Heights. Obtaining a business license will indicate final approval of the short-term rental application. The short-term rental property will not be considered legal until a business license is obtained.
2. The short-term rental property is required to maintain compliance with all sections and subsections of Chapter 19.89 and Chapter 5.85 of the Cottonwood Heights Municipal Code, as hereafter amended from time to time, and all other legal requirements and applicable laws.
3. The Operators shall provide a 24/7 hotline to resolve issues. Operators shall respond (in person, if appropriate) to telephonic complaints within one hour after such complaint is made. Inappropriate and/or non-response to such complaints shall constitute a violation.
4. Occupancy in any short-term rental property shall not exceed the lesser of: (a) up to two adults (persons aged 18 and above) and two related children (persons under age 18) per bedroom, or (b) a total occupancy (adults and children) of no more than 12 persons in the entire short-term rental property. It is prohibited to create artificial divisions or partitions for the purpose of increasing available occupancy of an otherwise standard dwelling unit.
5. This short-term rental property will be approved for no more than four (4) bedrooms. The term “bedroom” means a room designated and used primarily for sleeping and rest on a bed.
6. Upon issuance of a business license and conditional use permit, the applicant must display a copy of the business license inside the main entry of the property.

Findings for Approval

This recommendation is based on the following findings:

1. The proposed short-term rental meets the applicable provisions of Chapter 19.89 and Chapter 5.85 of the Cottonwood Heights Municipal Code.
2. That the proposed project will continue to meet the applicable provisions of Chapter 19.84, “Conditional Uses,” of the zoning code:
 - a. That the proposed use is one of the conditional uses specifically listed in the zoning district in which it is to be located (19.89.050);
 - b. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, comfort, order or general welfare of persons residing or working in the vicinity;
 - c. That the use will comply with the intent, spirit and regulations of this title and will be compatible with and implement the planning goals and objectives of the city;
 - d. That the use will be harmonious with the neighboring uses in the zoning district in which it is to be located;
 - e. That nuisances which would not be in harmony with the neighboring uses will be abated by the conditions imposed;
 - f. That protection of property values, the environment, and the tax base for the city will be assured;
 - g. That the use will comply with the city’s general plan;

- h. That the property will be required to comply with all conditions of approval in perpetuity, in accordance with Sections 19.89.160 – Inspections and 19.89.190 – Violations and penalties of the Cottonwood Heights Municipal Code.

Model Motions

Approval

I move to approve item CUP-24-001 pursuant to the conditions of approval outlined in the item's staff report

- Add any additional conditions of approval...

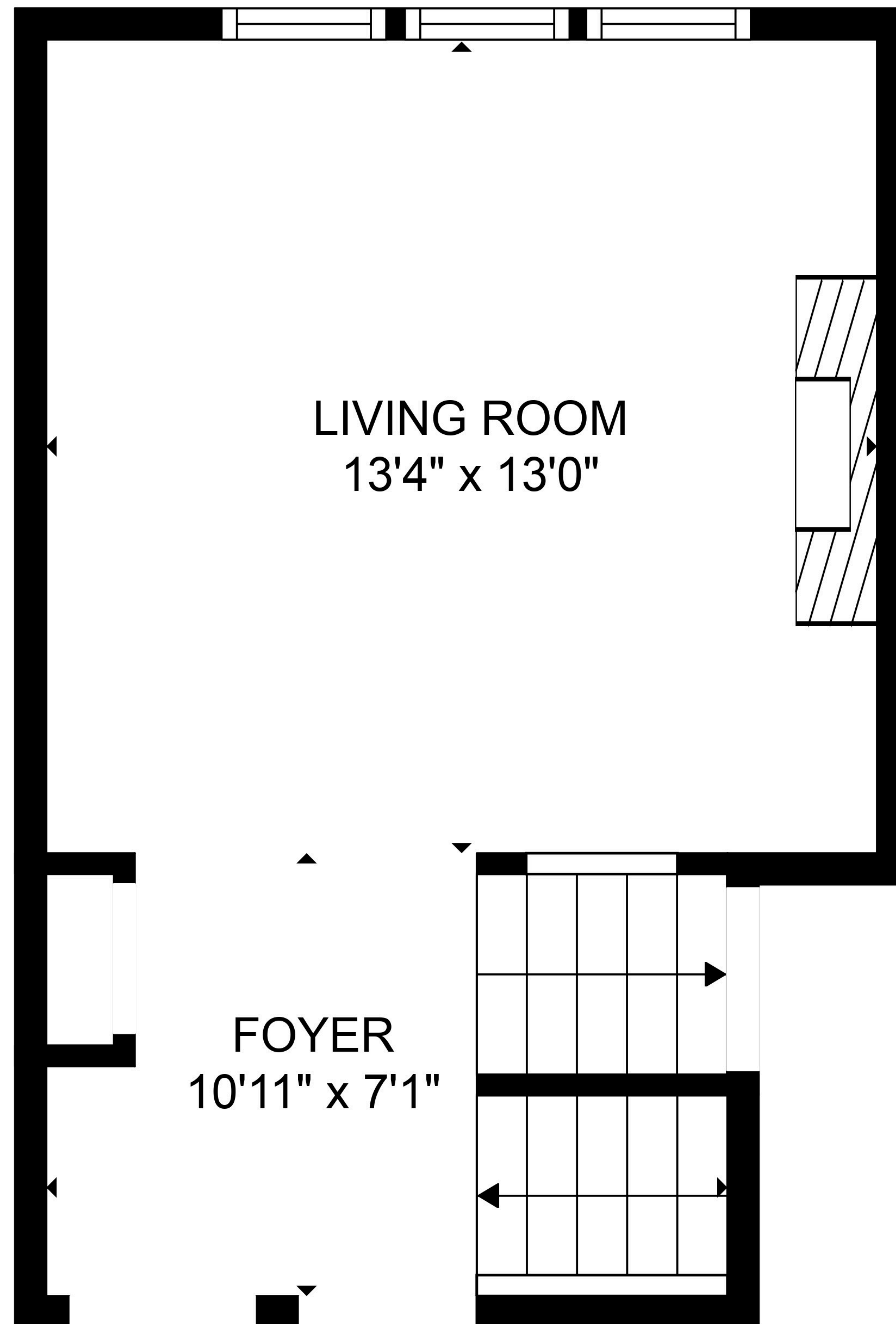
Denial

I move to deny item CUP-24-001 based on the following findings..."

- List reasons for denial...

Attachments

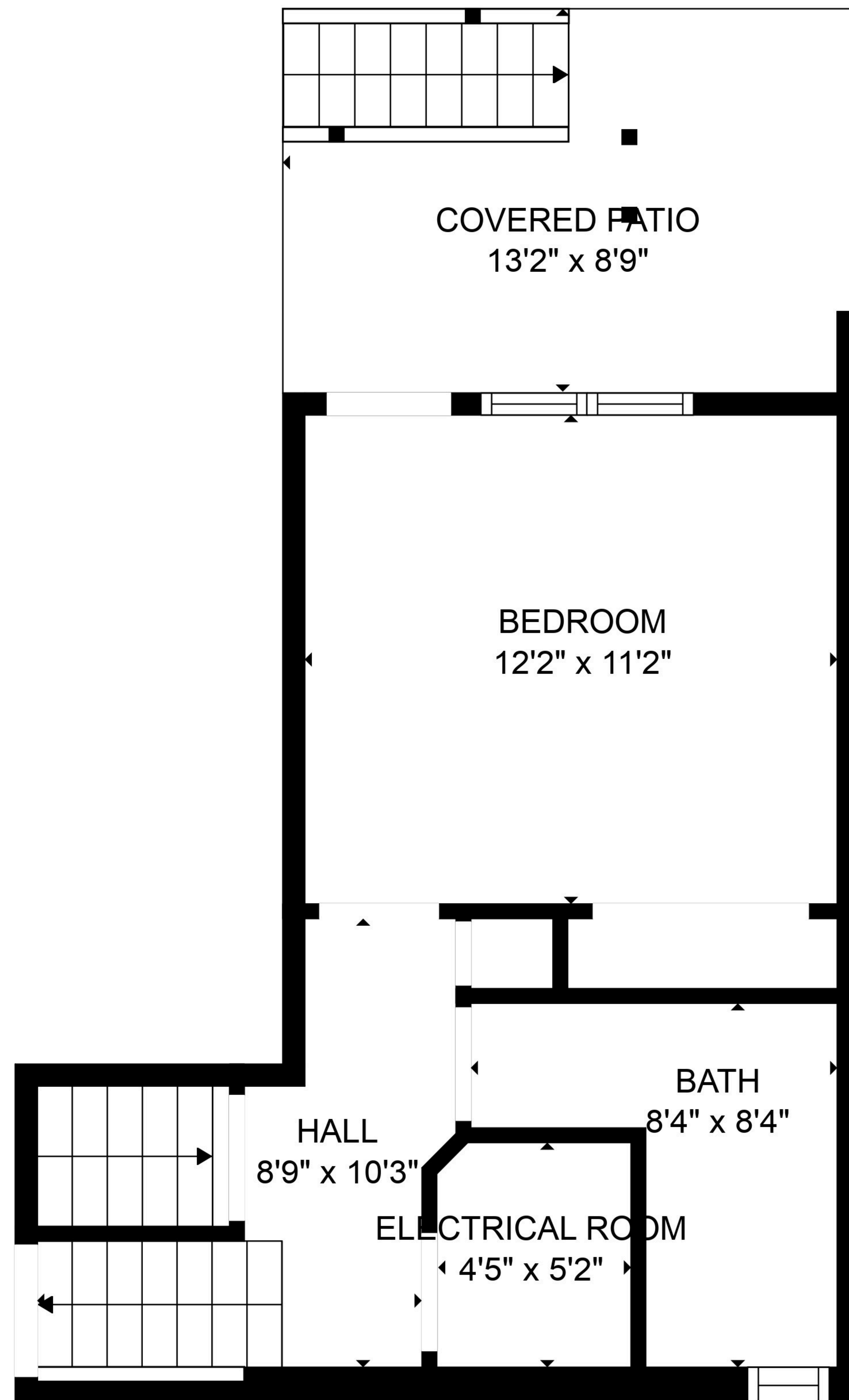
1. Floorplan
2. Photos



TOTAL: 1510 sq. ft

Below Ground: 237 sq. ft, FLOOR 2: 283 sq. ft, FLOOR 3: 250 sq. ft, FLOOR 4: 350 sq. ft, FLOOR 5: 390 sq. ft
EXCLUDED AREAS: ELECTRICAL ROOM: 23 sq. ft, COVERED PATIO: 115 sq. ft, DECK: 77 sq. ft,
OPEN TO BELOW: 223 sq. ft, LOW CEILING: 13 sq. ft

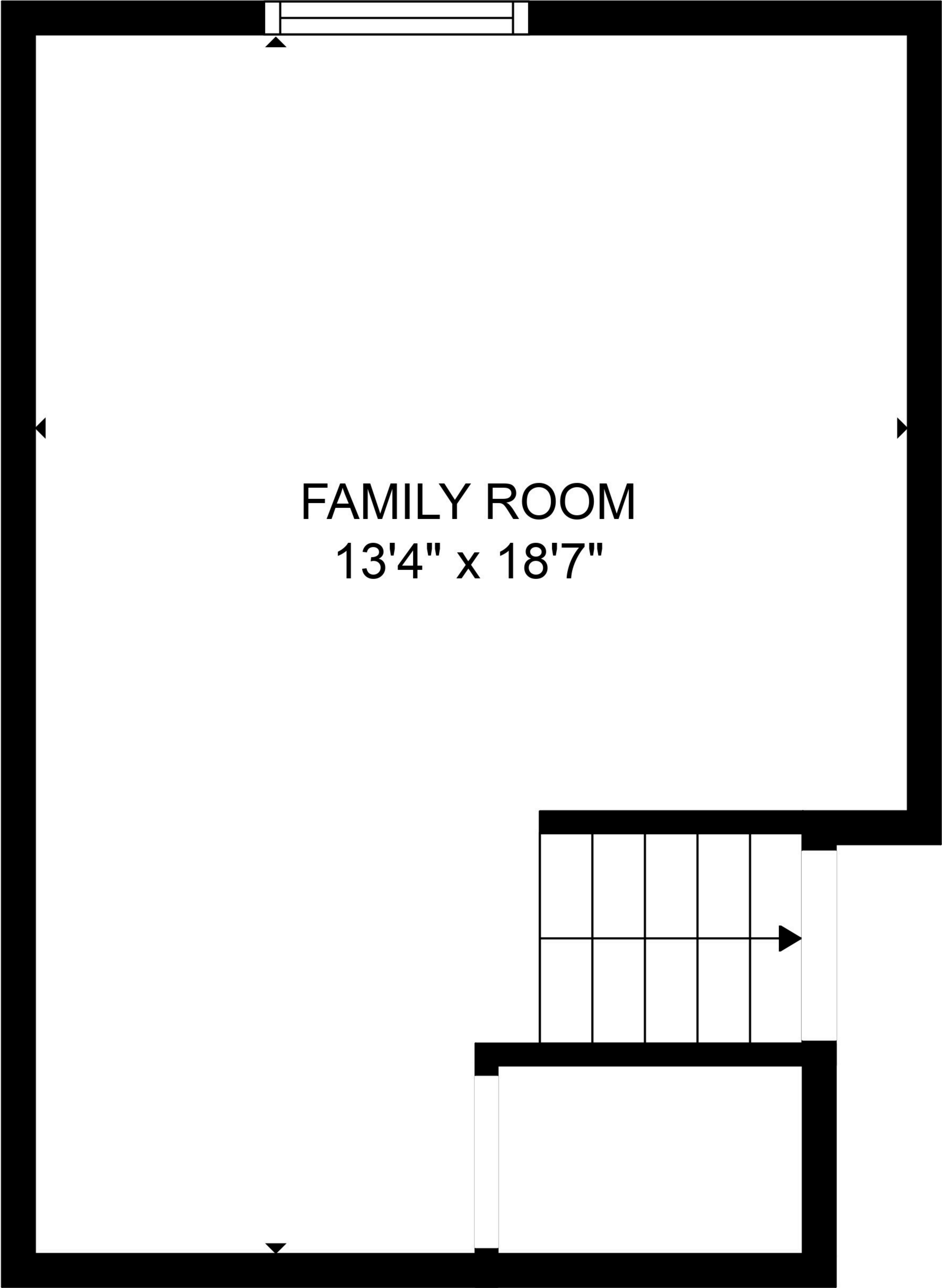
MEASUREMENTS ARE CALCULATED BY CUBICASA TECHNOLOGY. DEEMED HIGHLY RELIABLE BUT NOT GUARANTEED.



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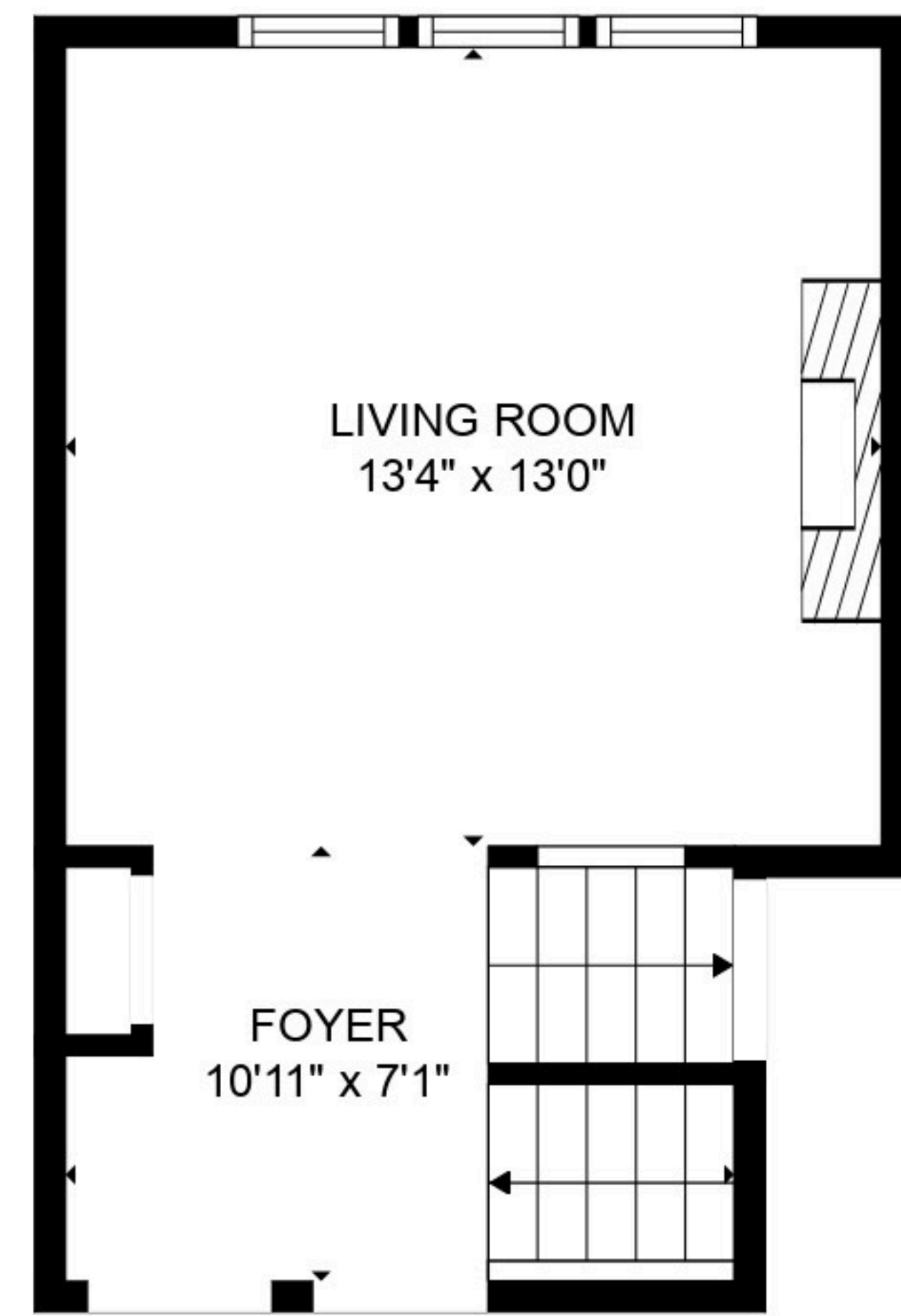
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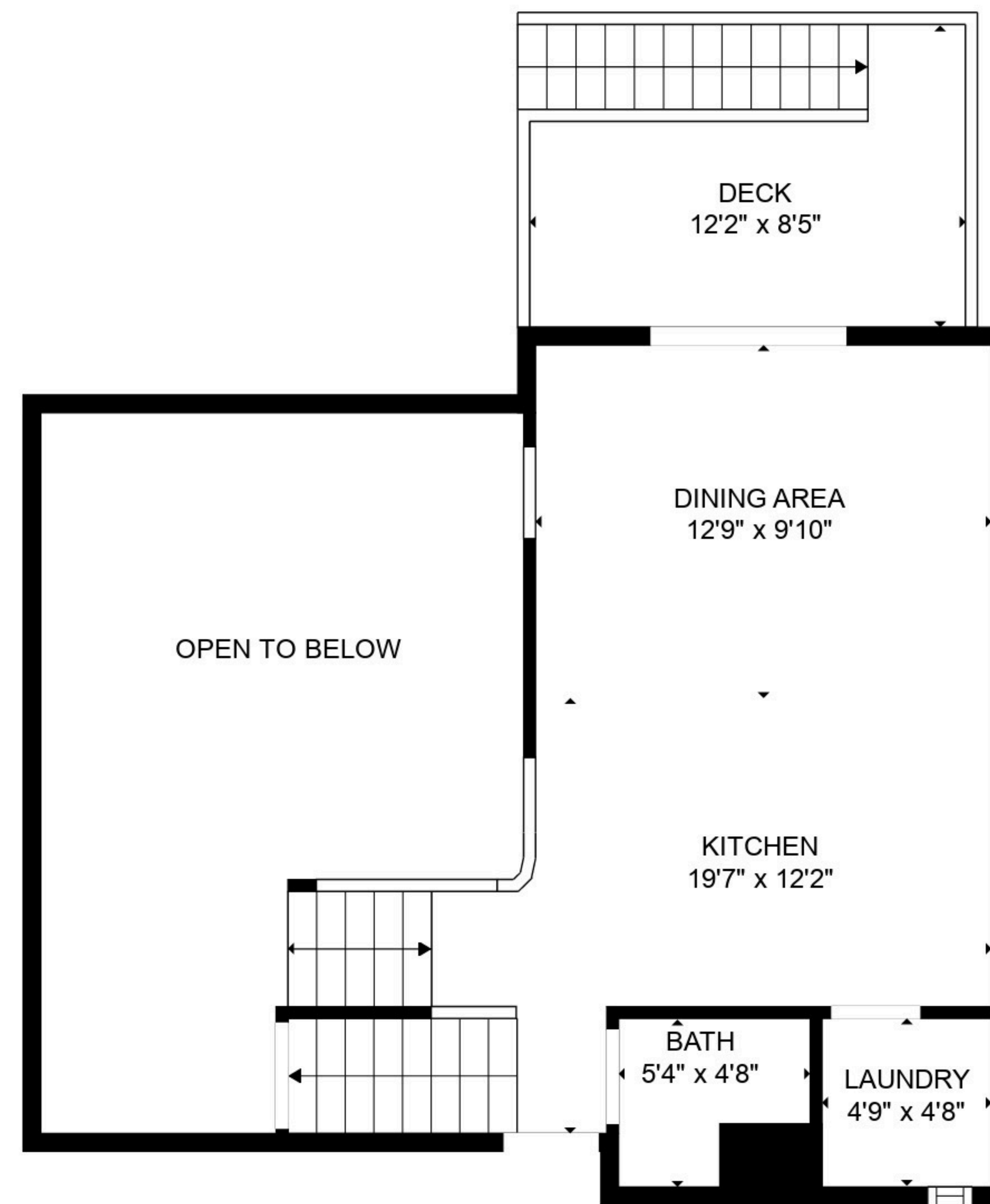
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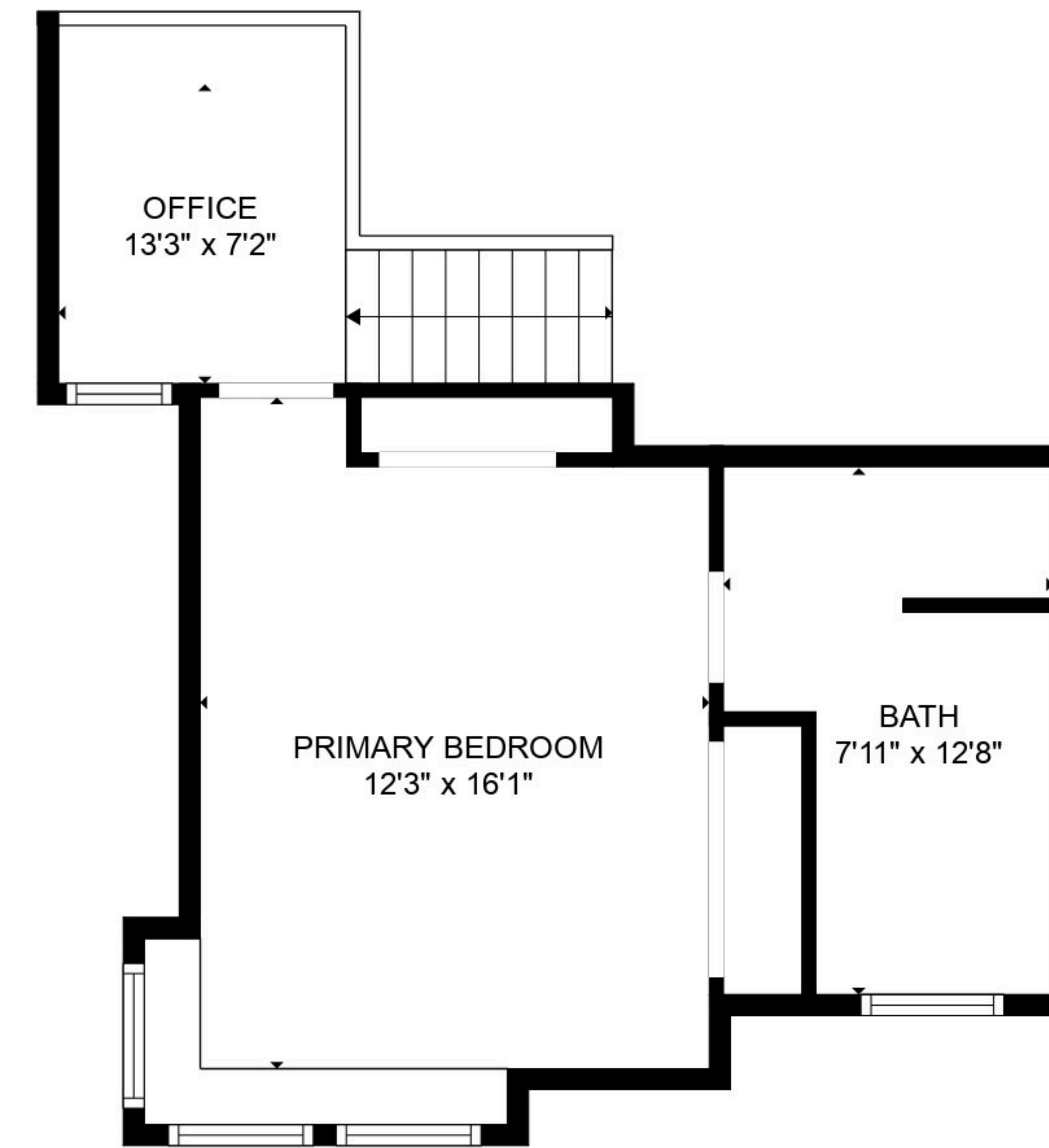
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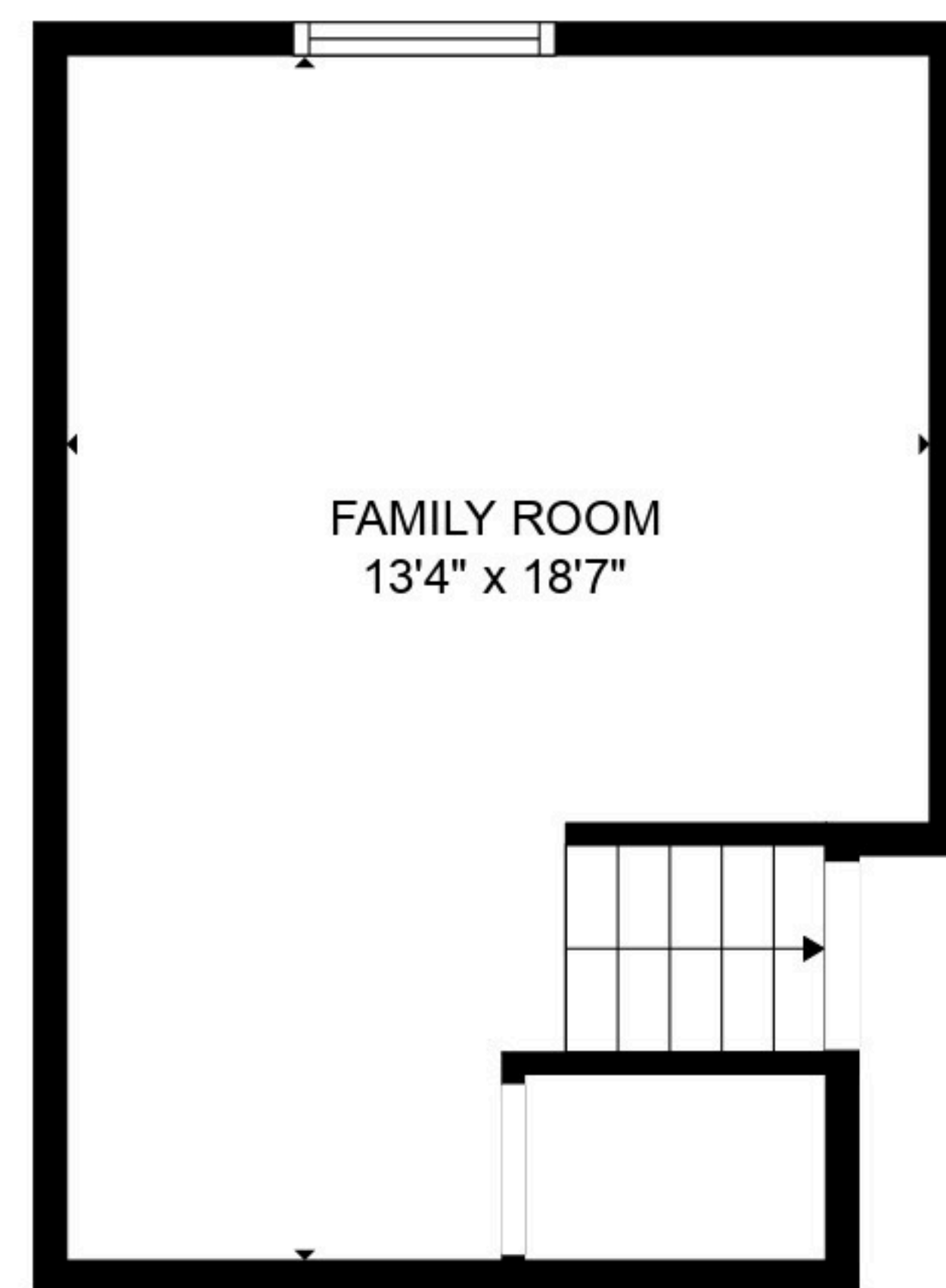
FLOOR 3



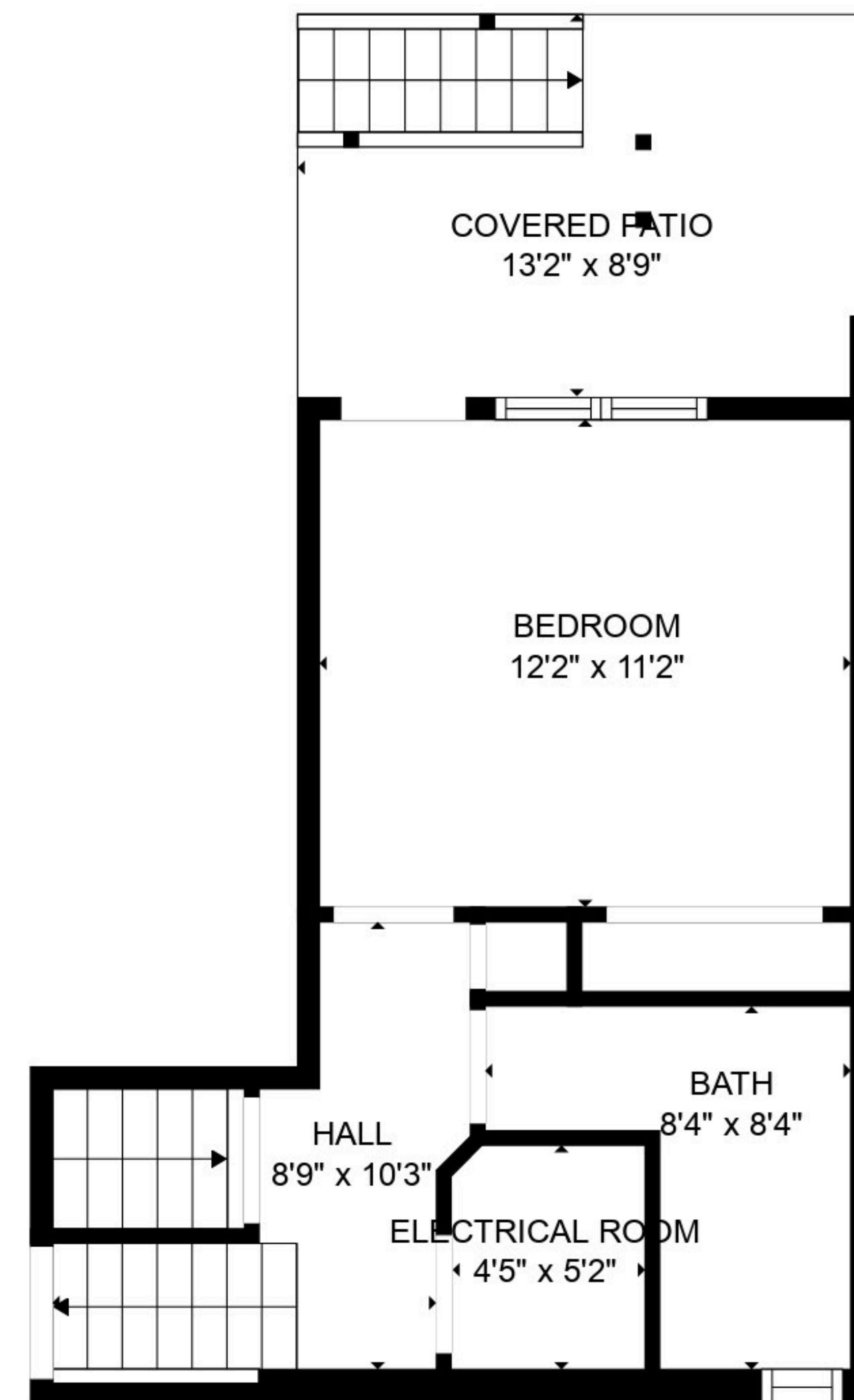
FLOOR 4



FLOOR 5



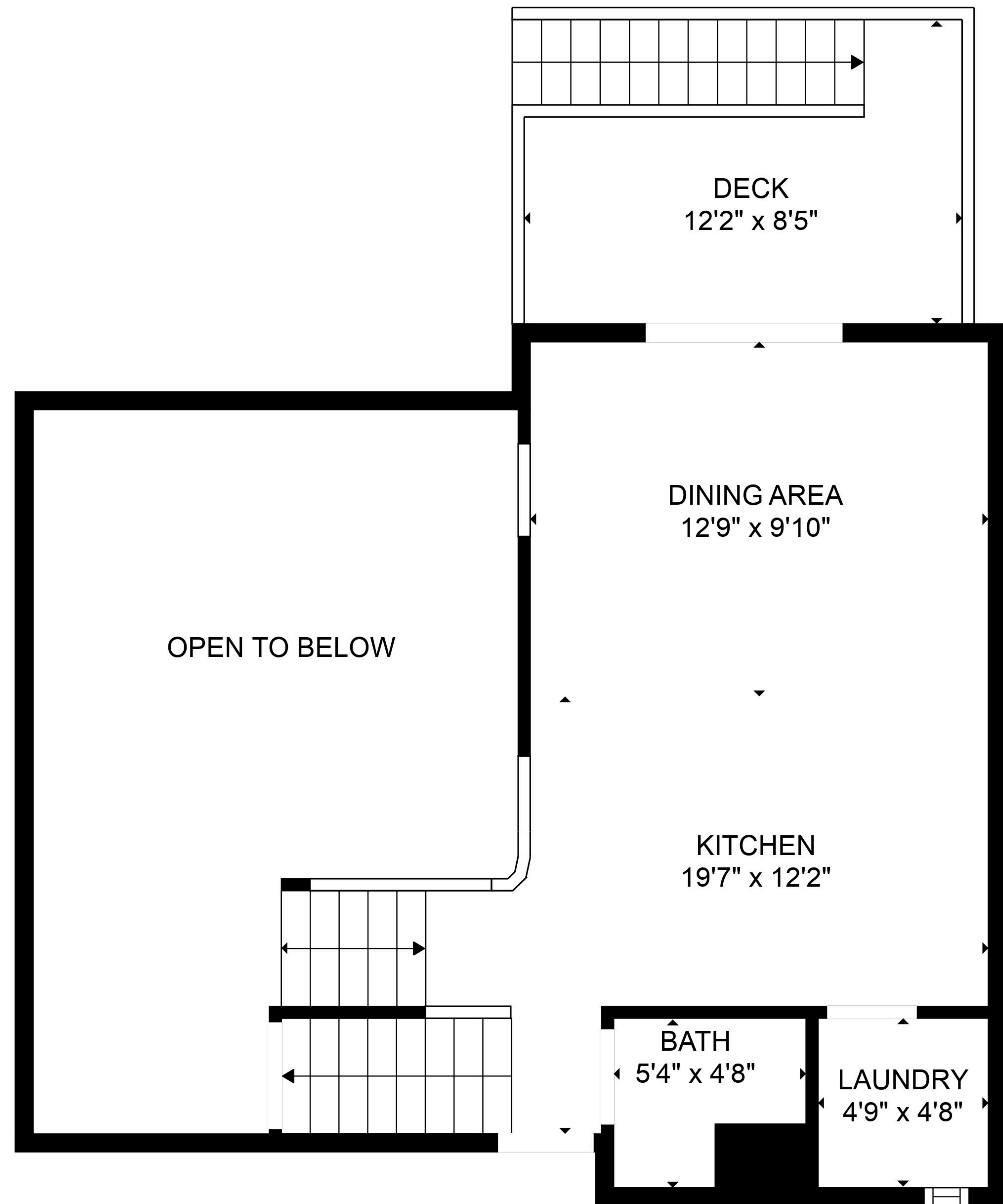
FLOOR 1



FLOOR 2

TOTAL: 1510 sq. ft

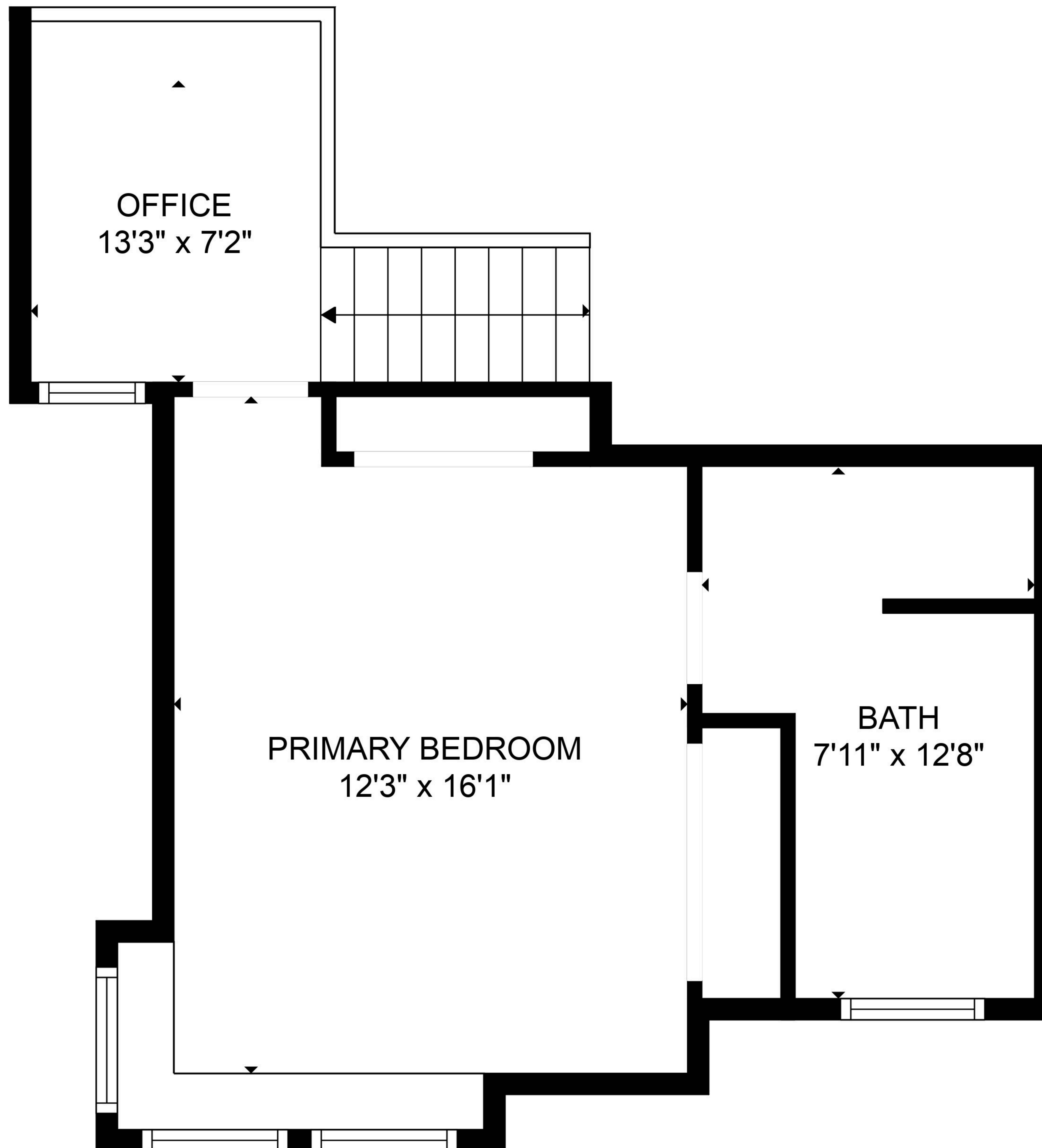
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8212

COTTONWOOD HEIGHTS CITY ARCHITECTURAL REVIEW COMMISSION STAFF REPORT



March 6, 2024

Summary

Project #:

CUP-24-002

Subject Property:

3569 E. Lone Brook Ln.

Action Requested:

Conditional Use Permit
(Short-Term Rental)

Owner:

Eric Gessner

Applicant:

Paz Ortiz

Recommendation:

Approve, with conditions



Aerial View

Analysis

Adjacent Zoning & Land Use

- **NORTH:** R-2-8 Multi-Family Residential (Oaks at Wasatch Place A PUD)
- **SOUTH:** R-2-8 Multi-Family Residential (Top of the World 5)
- **EAST:** R-1-8 Single-Family Residential (Top of the World 3)
- **WEST:** PF Public Facilities (Golden Hills Park)

Staff Analysis

The unit contains three bedrooms. The applicant is proposing to accommodate up to 6 guests at a time. The unit includes two car garage and a driveway in front of the garages for parking. The property is located in the R-2-8 (Multi-Family Residential) Zone. Short-term rentals may be approved as a conditional use in the R-2-8 Zone, provided that the property is part of a planned unit development or condominium project that contains at least eight units and fronts on a private street. The subject property is a part of the Oaks at Wasatch PUD B, which contains 57 units. The property fronts Lone Brook Ln., which is a private street.

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Findings for Approval

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 - c. That the use will comply with the intent, spirit and regulations of this title and will be compatible with and implement the planning goals and objectives of the city;
 - d. That the use will be harmonious with the neighboring uses in the zoning district in which it is to be located;
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 - g. That the use will comply with the city’s general plan;

- h. That the property will be required to comply with all conditions of approval in perpetuity, in accordance with Sections 19.89.160 – Inspections and 19.89.190 – Violations and penalties of the Cottonwood Heights Municipal Code.

Model Motions

Approval

I move to approve item CUP-24-002 pursuant to the conditions of approval outlined in the item's staff report

- Add any additional conditions of approval...

Denial

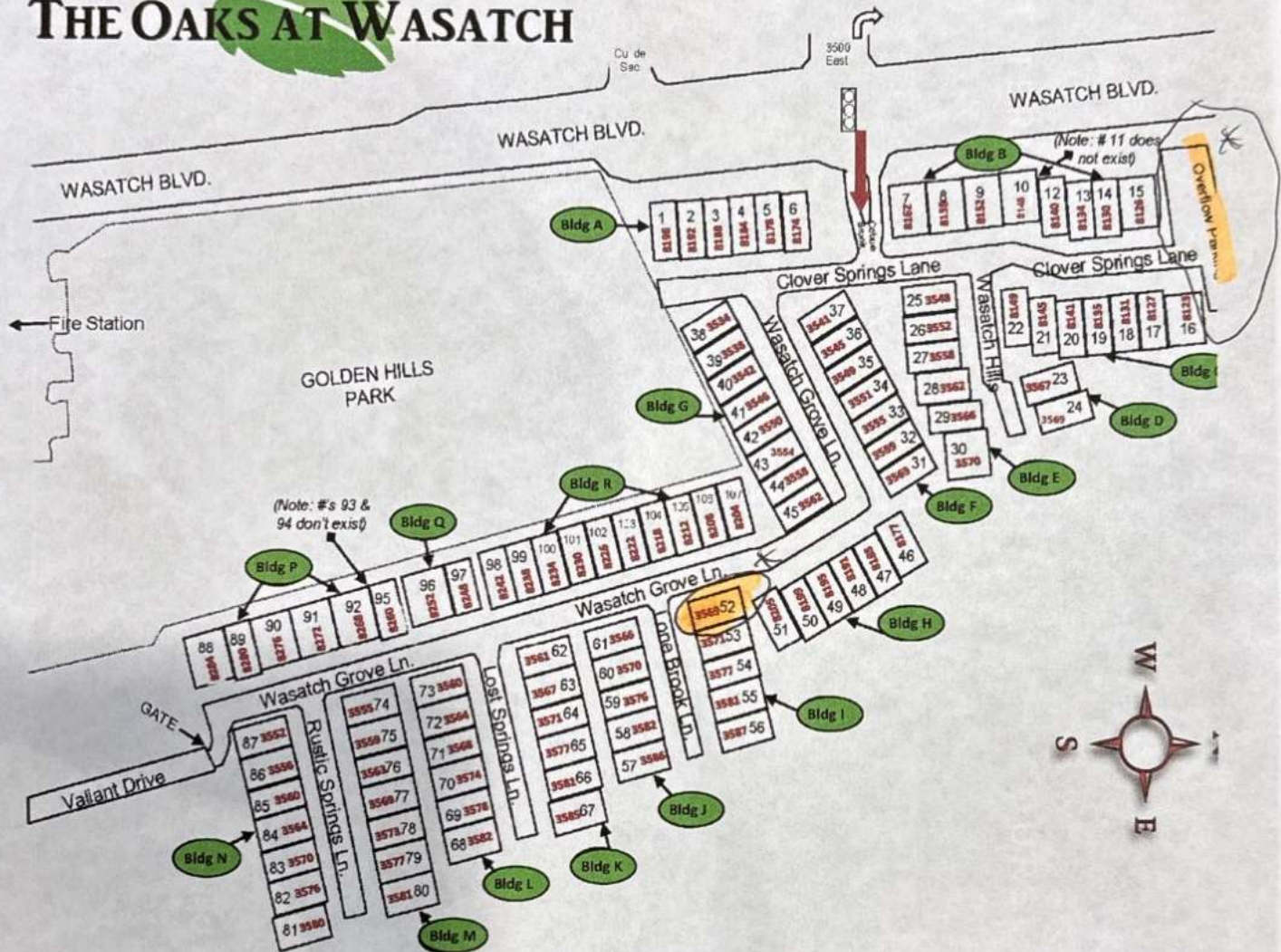
I move to deny item CUP-24-002 based on the following findings..."

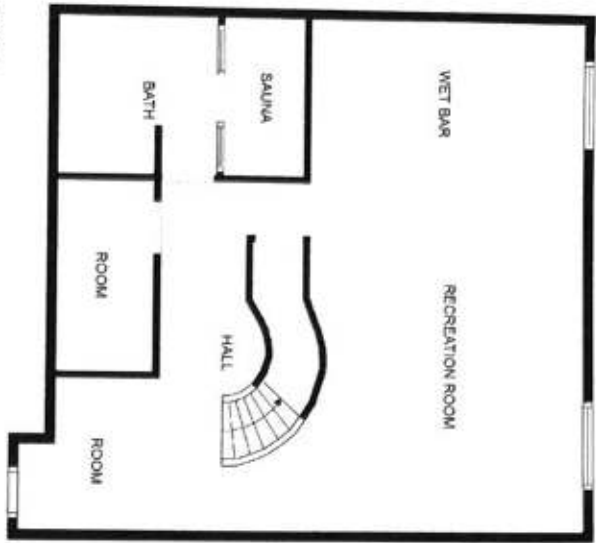
- List reasons for denial...

Attachments

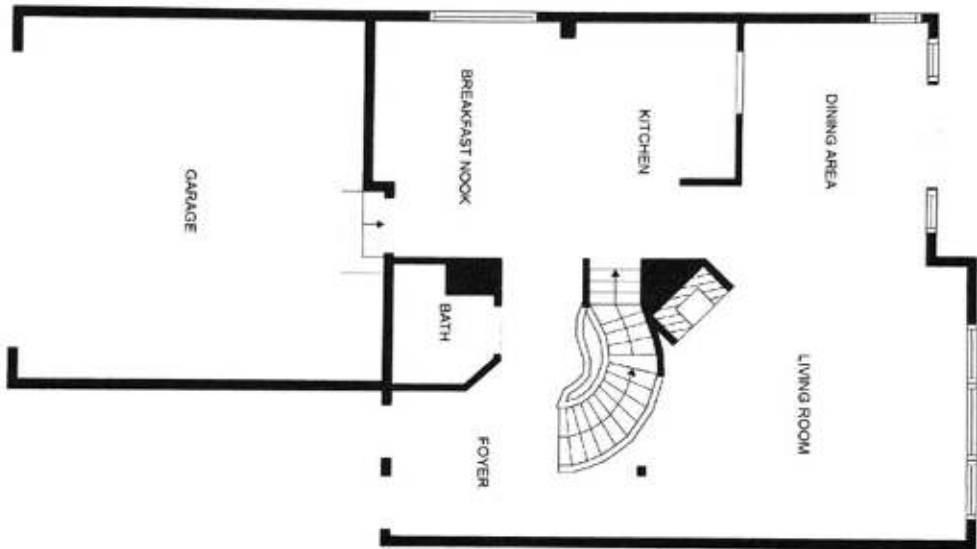
1. Floorplan
2. Photos
3. Owner's consent form

THE OAKS AT WASATCH

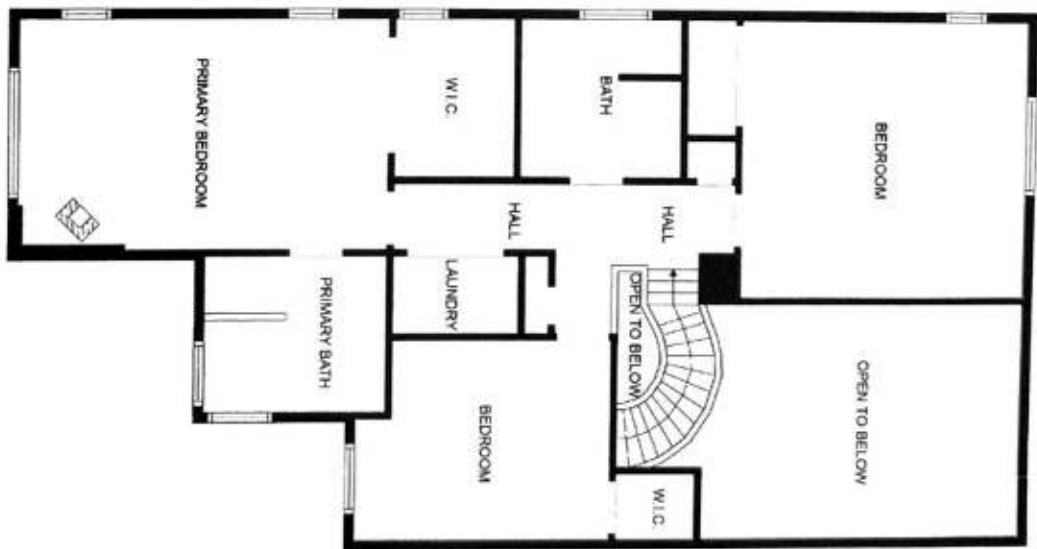




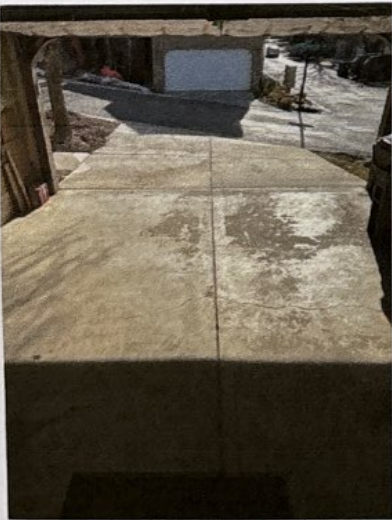
FLOOR 1



FLOOR 2



FLOOR 3







SHORT-TERM RENTAL CERTIFICATION COURSE

Certificate of Achievement

is awarded to

Paz Ortiz

for elevating their industry knowledge to a professional level by completing the
Short-Term Rental Certification Course at the
College of Southern Nevada, Las Vegas.

Julie Davies

Julie Davies
Educator



12/4/19

CSN2108312.150.2D

Utah Real Estate Continuing Education Certificate

**SHORT-TERM RENTAL PROPERTY
MANAGEMENT (CORE)**

SCRIPTS AND TRIPS

Date of Course: December 4, 2019

This certifies that Paz Ortiz, license number 5870925-05400
(Please PRINT student's name)
has completed 10 hour(s) of real estate continuing education.

[Signature]
Student Signature

[Signature]
Course Sponsor Signature
(Sign or Initial in Blue Ink)

Certification # RC190377
Provider ID: CEP6099856

Course Certification Expiration Date: March 31, 2021

OWNER'S CONSENT FORM

I/we, the Undersigned, do hereby grant permission to:

PAZ ORTIZ

To act on my/our behalf for the purpose of the following application:

SHORT TERM RENTAL CONDITIONAL USE PERMIT

Owner(s): Eric Gessner

Address(es): 30 Chester Rd. Boxborough, Ma. 01719

Telephone Number(s): 315 244 2441

Signature of Owner: Eric G. Gessner Date: 1/25/2024

Signature of Owner: _____ Date: _____

Signature of Owner: _____ Date: _____

State of Massachusetts
~~MASSACHUSETTS~~
County Of: Middlesex } ss.

On this 25 day of January, 2024 before me, the undersigned Notary Public, personally appeared Eric Gessner, personally known to me, or whose identity I verified on the basis of their US Passport, or on the oath of _____, a credible witness whose identity I verified on the basis of their US Passport, to be the person(s) whose name(s) is/are subscribed to in this instrument and acknowledged that they executed the same.

Wilkins R. Minlety
Notary Public

01/18/2030
Notary Commission Expiry Date



WILKINS R. MINLETY
Notary Public, Commonwealth of Massachusetts
My Commission Expires January 18, 2030



Administrative Hearing MEMO

CUP-24-003 – Amended Conditional Use Permit – Wall
Height Extension

Meeting Date: March 6, 2024

Staff Contact: Maverick Yeh, Planner I

Summary of Updated Request

The applicant has submitted an amended application for project CUP-23-016. That previous request, approved on January 3, 2024, approved a wall height extension at the subject property. At the hearing, several conditions of approval were imposed by the hearing officer to reasonably mitigate potential negative impacts of the wall. Those conditions of approval are as follows:

1. A building permit and all necessary inspections shall be obtained and completed.
2. The building permit will clearly state materials and design and shall not exceed a total height of 6 feet 4 inches from the existing grade.
3. Any filling material bearing upon the fence from the applicant's property shall be entirely removed or regraded. This condition shall require inspection and written approval by city staff to be considered satisfied.
4. The applicant shall provide details on the building permit regarding erosion control.
5. The applicant shall work with staff to lower the height of the fence panel adjacent to the public sidewalk to no more than 5.5 feet

The current submission is to amend the conditions approved in the last meeting, specifically item No. 5. The applicant contends that the city did not provide sufficient evidence or proof regarding the raised safety concerns. The previous decision was predicated on a perceived agreement to a fence height of 5.5 feet, alongside a perceived notion of safety. The applicant is requesting to remove that condition of approval from its scope of work.

Additionally, the applicant has requested that the city conduct a sidewalk visibility safety analysis in direct response to the imposed condition of approval regarding site visibility. If the study reveals no safety concerns, the applicant wants to complete the fence in its current configuration. The fence stands at a height of 6 feet, with the posts measuring 6 feet 4 inches, except for the end post, which extends to 6 feet 10 inches from the applicant's property. The increased height of this post is a result of the city's directive to remove soil from the applicant's property due to erosion concerns along the sidewalk.

If the sidewalk safety study identifies any issues, the applicant is prepared to relocate the fence post closest to the sidewalk by 2 feet, providing a buffer from the sidewalk to the beginning of the fence. The applicant is no longer proposing to lower the first panel of the fence below the height of the rest of the approved fence.

The City's Public Works Department completed an inspection of this site visibility concern on February 26, 2024. The inspection revealed no visibility issues and confirmed that extending the fence all the way to the sidewalk does not result in any codified safety or visibility issue found within the Cottonwood Heights Municipal Code.

Additionally, the applicant contests the decision to implement erosion control measures along their fence. They have submitted photos as part of this contentment, which are attached to this memo. The applicant has also submitted a certified engineering letter to address the potential erosion concerns.

Recommendation & Model Motions

Approval

- “I move to approve item CUP-24-003 pursuant to the conditions of approval outlined in the item’s staff report.”
- Add any additional conditions of approval....

Denial

- “I move to deny item CUP-24-003 based on the following findings...”
- List reasons for denial...

Attachments

1. Fence pictures
2. Erosion issue review letter
3. CUP-23-016 Staff report
4. CUP-23-016 Approval letter

























NICHOLS NAYLOR ARCHITECTS

10459 SOUTH 1300 WEST SUITE 201
SOUTH JORDAN UT, 84095
(801) 487-3330



February 28, 2024

Re: Carter Residence
7245 S. Dorset Circle
Cottonwood Heights, Utah

Attention: Cottonwood Heights City
Administrative Hearing CUP-23-016 March 6, 2024

Dear Hearing Officer,

My name is Russell Naylor. I am a principal in the firm Nichols Naylor Architects. I have practiced architecture in thirteen western states for more than 40 years.

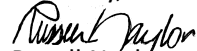
Recently, I became aware of difficulties my client, Brad Carter has been experiencing while completing construction on a six-foot tall Trex fence on his North property line. The owner of the property to the North has objected to the conditional use permit CUP23-016 granted to allow the fence to be constructed. Mr. Carter and his wife object to the condition of approval that is included in the conditional use permit approval letter dated January 3, 2024. That condition is an erosion control plan. I had the opportunity to visit Brad's home at 7245 S. Dorset Circle, Cottonwood Heights on Wednesday of last week.

The purpose of my visit was to observe the progress of construction and offer my professional opinion concerning one of the conditions included in the CUP approval.

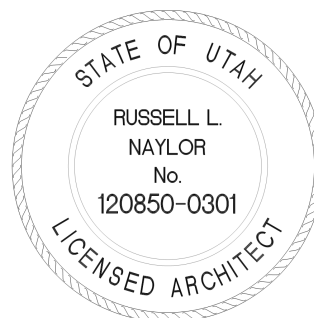
I noted that the posts, top and bottom rails for the fence have been constructed. There is a planter with plants and shrubs along the North property line (South of the fence). The planter slopes slightly to the West. The last eight-feet slopes about 12" to the sidewalk. Cottonwood Heights experienced significant rainfall in February and for 3 or more days prior to my visit we experienced heavy rainfall. If soil erosion was a problem, I would have expected to see soil washed onto the sidewalk and possibly under the fence to the North. There is no evidence of soil washed onto the sidewalk and no evidence of soil erosion under the existing chain link fence to the neighbor's yard to the North.

My conclusion is no additional erosion control is warranted. Please contact me if you have any questions concerning my conclusion.

Sincerely,


Russell Naylor

Nichols Naylor Architects







January 3, 2024

Brad and Chari Carter
7245 S. Dorset Cir.
Cottonwood Heights, UT 84121

**RE: Conditional Approval of CUP-23-016, Conditional Use Wall/Fence Height Extension,
7245 S. Dorset Cir.**

Mr. Carter,

On January 3, 2024, the Community & Economic Development Director/ Admin. Hearing Officer approved a conditional use permit for a wall/fence height extension not to exceed six-foot four-inch height at 7245 S. Dorset Cir. This approval is contingent upon the following conditions being met.

The following are the conditions of approval:

1. A building permit and all necessary inspections shall be obtained and completed.
2. The building permit will clearly state materials and design and shall not exceed a total height of 6 feet 4 inches from the existing grade.
3. Any filling material bearing upon the fence from the applicant's property shall be entirely removed or regraded. This condition shall require inspection and written approval by city staff to be considered satisfied.
4. The applicant shall provide detail on the building permit regarding erosion control.
5. The applicant shall work with staff to lower the height of the fence panel adjacent to the public sidewalk to no more than 5.5 feet.

This letter is notice of decision by the City's Community & Economic Development Director / Admin. Hearing Officer and constitutes approval of a conditional use.

Sincerely,

Maverick Yeh
Assistant Planner
Cottonwood Heights City



ADMINISTRATIVE HEARING STAFF REPORT

Wall Height Extension: 7245 S. Dorset Cir

Meeting Date: January 3, 2024

Staff Contact: Maverick Yeh
(801-944-7018)

Summary

Project #:

CUP-23-016

Subject Property:

7245 S. Dorset Cir.

Action Requested:

Conditional Use Wall Height
Extension

Owner:

Brad and Chari Carter

Applicant:

Brad and Chari Carter

Recommendation:

Approve, with conditions



This aerial image shows the subject property in context of the neighborhood. The blue line shows the location of the proposed wall height extension. Red lines show the other property lines of the home.

APPLICANT'S PROPOSAL

The applicant proposes the construction of a six-foot four-inch (6'4") fence along the north property line of their lot. The request for this fence stems from the desire for increased privacy between the applicant's front yard and their neighbor's backyard, which are adjacent to one another. As this property line is a shared boundary between a rear yard and a front yard, city staff interpreted the code as allowing a six-foot fence on this boundary. In other circumstances, fencing in the front yard would be limited to four feet. While city staff provided this interpretation allowing the construction of a six-foot fence, the actual implementation resulted in posts that were four inches higher once capped. Following a code enforcement investigation, the applicant is now applying for a conditional use permit to ensure that both the usage and height of the fence align with the city's regulations. This proposed fence, standing at a height of six feet four inches, aims to provide a reasonable level of privacy to homeowners. The material of choice for construction is Trex, which not only ensures durability but also enhances privacy for the applicant.



Existing Fence

- Fence Posts
- (Fencing has been partially installed, but was stop-worked due to the height exceeding six feet).



Proposed Fence

- The six-foot four-inch height includes the fence caps
- The proposed fence format will provide significant privacy to the homeowner.

BACKGROUND

Zoning

The zoning designation of the property is R-1-8 (Residential Single-Family). Fences and walls may be allowed to a maximum height of eight feet in any zone as a conditional use, and up to 12 feet as a conditional use with neighbor consent, as outlined in section 19.76.050.E CH Code.

As this proposal is requesting only six-feet four-inch, consent was not required.

Conditional use. Fences in the side and rear yards may be erected to a maximum height of eight feet as a conditional use upon a clear and convincing showing by the property owner in accordance with subsections (a) and (b) below:

- a. The existence of unique or special circumstances of a natural, material and adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence; and
- b. That erection of such a fence is the most reasonable solution under the circumstances. Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be required for all fences approved as a conditional use.

Neighbor consent. Side and rear yard fences may exceed eight feet in height to a maximum height of 12 feet in cases where the applicant has neighbor consent, and has received conditional use approval in accordance with subsection 19.76.050(E)(3).

IMPACT ANALYSIS

Staff Analysis: The applicant's property is located in a cul-de-sac, linking the front yard area to the backyard of the adjacent neighbor, which is why city staff interpreted the code as allowing a six-foot fence at this location. In addition, this fence does not affect the clear view area 30 feet from the driveway approach. As per this application, the staff deems the proposed six-foot four-inch fence to be a reasonable privacy enhancement. The additional four inches does not impose any unreasonable or negative impact that a six-foot fence would not impose. However, there appears to be fill material within the applicant's property. Staff recommends that the fill material be removed from against the wall, or the wall be assessed by a licensed engineer and deemed fit to withstand such load, and that the fill is graded in a way to prevent debris runoff. The fill material against the wall may present an issue with debris flowing onto the public sidewalk.



Noticing

Property owners within 300 feet of the subject property have been mailed notices. Notices were mailed, as well as posted on noticing websites and the City Hall bulletin board, on December 18, 2023.

Conditional Use Permit Determining Criteria

Staff has found enough evidence that the standards for the issuance of a conditional use permit have been satisfied (see Section 19.84.080 CH Code).

FINDINGS FOR APPROVAL

1. There is clear and convincing evidence shown by the property owner relating to privacy will be substantially minimized or eliminated by the implementation of the requested wall and fence combination; (19.76.050.E.1.a)
2. That construction of such wall and fence is the most reasonable solution under the circumstances. The additional fence height is necessary to ensure mitigation of aforementioned issues.
3. The conditional use permit is granted by the director or his designee following an administrative hearing preceded by all required notifications. (19.76.050.E.1.b)
4. The evidence presented with the proposed conditional use has been found to be compliant with the requirements of section 19.84.080 (Conditional Uses – Determination) and section 19.76.050.E (Miscellaneous – Fences).
5. There is sufficient evidence that the standards for the issuance of a conditional use permit as outlined in Section 19.84.080 CH Code have been satisfied.

RECOMMENDED CONDITIONS OF APPROVAL

1. A building permit and all necessary inspections shall be obtained and completed.
2. The building permit will clearly state materials, design, and shall not exceed a total height of 6 feet 4 inches from existing grade.
3. Any fill material bearing upon the fence from the applicant's property shall be fully removed or regraded. This condition shall require inspection and written approval by city staff to be considered satisfied.

MODEL MOTIONS

- Approval
 - “I move to approve item CUP-23-016 pursuant to the conditions of approval outlined in the item’s staff report.”
 - Add any additional conditions of approval....
- Denial
 - “I move to deny item CUP-23-016 based on the following findings...”
 - List reasons for denial...

ATTACHMENTS:

- 1. Applicant Application**
 - a. Existing conditions**
 - b. Proposed layout**
 - c. Proposed materials**