

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
 SW/S Hidden Trail Drive, 800'+/- * DEPUTY ZONING COMMISSIONER
 S of Shaded Brook Drive (11100 Hidden Trail Drive) * OF BALTIMORE COUNTY
 3rd Election District * Case No. 90-211-X
 3rd Councilmanic District
 Bernard Geher, et ux
 Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception to permit a musician's studio as an accessory use on the subject property, in accordance with Petitioner's Exhibit 1.

The Petitioners, by Arnold Geher, Petitioners' son, appeared, testified and was represented by E. Scott Johnson, Esquire. Also appearing on behalf of the Petition was Hugh E. Gelston, Real Estate Appraiser. There were no Protestants.

Testimony indicated that the subject property, known as 11100 Hidden Trail Drive, consists of 2.99 acres more or less zoned R.C. 5 and is improved with a single family dwelling in excess of 6,000 sq.ft. Petitioners have resided on the subject property with their son since 1984. Testimony indicated that Arnold Geher is involved in pursuing his interests in the music profession, which began at the age of 12, in the basement of Petitioners' home in an area not exceeding 725 sq.ft. Petitioners have made improvements for a music studio and soundproof room for recording purposes. Mr. Geher testified that there will not be any employed persons in connection with his use of the property and that there is no exterior evidence of a musician's studio existing on the property. He testified that a typical music session involves one or two individuals who may visit the site for several hours each day working on a musical arrangement. He

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 Date 1/18/90
 By [Signature]

agreed that the hours of operation would be limited to between 9:00 AM and 10:00 PM. The restriction in the hours of operation is not intended to prevent Mr. Geher from using that portion of the studio for strictly personal purposes. Mr. Geher further agreed that the use of the studio would be limited to his period of tenancy in his parents' home. Mr. Geher testified that when the studio is in use the noise does not permeate to the outside. Petitioner contends that the use proposed would not conflict with the requirements set forth in Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). To support his position, Petitioner introduced as Petitioner's Exhibit 3 the affidavit of Raymond M. Schiff, owner and resident of 11112 Hidden Trail Drive, who has indicated he has lived at this residence since August, 1983, prior to the Geher's becoming neighbors. Mr. Schiff's affidavit indicates that he is aware of the music studio operated by Petitioners' son in the basement of the subject property and supports Petitioners' request to permit its continued existence and operation. In Mr. Schiff's opinion, the use is not detrimental to the health, safety or general welfare of the community and is conducted in a private and sensitive manner. Mr. Schiff further indicated that the subject use has not created any traffic congestion.

Mr. Gelston testified as to the requirements set forth in Section 502.1 and introduced numerous photographs which clearly depict the subject property and surrounding uses. Mr. Gelston indicated that after visiting the site and observing the use of the property as requested, it is his opinion that the requirements of Section 502.1 will be met and that said use will not be detrimental to the health, safety or general welfare of the community. He further indicated that in his professional opinion, the proposed use will not affect property values.

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After due consideration of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, the use of not greater than 25% of the subject property for a musician's studio as an accessory use is permitted by special exception, pursuant to Section 1A04.2(B)(10A) of the B.C.Z.R.

It is clear that the B.C.Z.R. permits the use proposed in a R.C. 5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

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After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 18th day of January, 1990 that the Petition for Special Exception to approve a musician's studio as an accessory use of the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The special exception granted herein is limited to the operation of a musician's studio by Arnold Geher so long as he remains a permanent resident of the subject property. In the event Arnold Geher no longer resides on the property or the property is sold and/or transferred, the special exception granted herein shall be rescinded.
- 3) The musician's studio granted herein is limited to that area depicted in Petitioner's Exhibit 2B marked studio. There shall be no exterior evidence of the existence of a musician's studio on the property.
- 4) Petitioners shall not employ any non-professional resident, professional associate, or any other non-resident employees.
- 5) The hours of operation of the musician's studio are restricted to between 9:00 AM and 10:00 PM on any given day of the week, with the exception of its use for personal and not remunerative purposes by Arnold Geher.

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6) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

ANN M. NASTAROWICZ
 Deputy Zoning Commissioner
 for Baltimore County

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 Date 1/18/90
 By [Signature]

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21284
 (301) 887-3553
 J. Robert Haines
 Zoning Commissioner

January 22, 1990



E. Scott Johnson, Esquire
 1600 Maryland National Bank Building
 Baltimore, Maryland 21202

RE: PETITION FOR SPECIAL EXCEPTION
 SW/S Hidden Trail Drive, 800'+/- S of Shaded Brook Drive
 (11100 Hidden Trail Drive)
 3rd Election District - 3rd Councilmanic District
 Bernard Geher, et ux - Petitioners
 Case No. 90-211-X

Dear Mr. Johnson:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,
 [Signature]

ANN M. NASTAROWICZ
 Deputy Zoning Commissioner
 for Baltimore County

AMN:bjs

cc: People's Counsel

File

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-211-X

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for a musician's studio as an accessory use pursuant to B.C.Z.R. 1A04.2(B)(10A)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

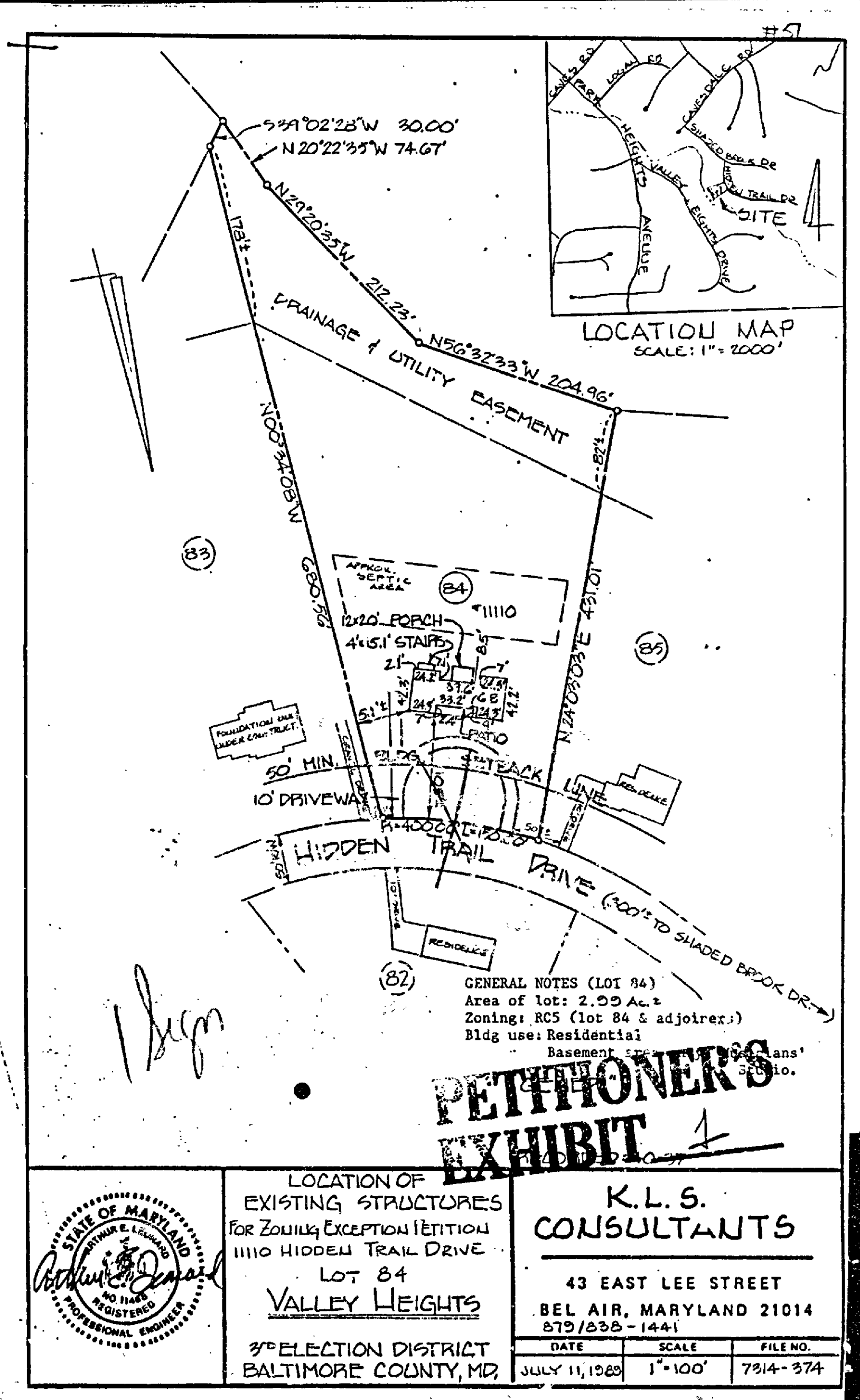
I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Resident (Legal Owner's Son): [Signature] (Type or Print Name) [Signature]	Legal Owner(s): BERNARD GEHER (Type or Print Name) [Signature]	MAP NW/SE E.D. 3rd DATE 9-20-89 300 1000 6
Address: 1110 HIDDEN TRAIL DR. City and State	CHARA GEHER (Type or Print Name) [Signature]	
Attorney for Petitioner: E. Scott Johnson, Esq. (Type or Print Name) [Signature]	1110 HIDDEN TRAIL DR - 363-0799 Address Phone No.	
1600 Maryland National Bank Bldg. Address	OWINGS MILLS, MD. 21117 City and State	
Baltimore, Maryland 21202 City and State	Name, address and phone number of legal owner, contract purchaser or representative to be contacted	
Attorney's Telephone No.: 347-7388	Name Address Phone No.	

ORDERED By the Zoning Commissioner of Baltimore County, this 17 day of Sept 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 1st day of Dec 1989, at 11:30 o'clock AM.

[Signature]
 Zoning Commissioner of Baltimore County

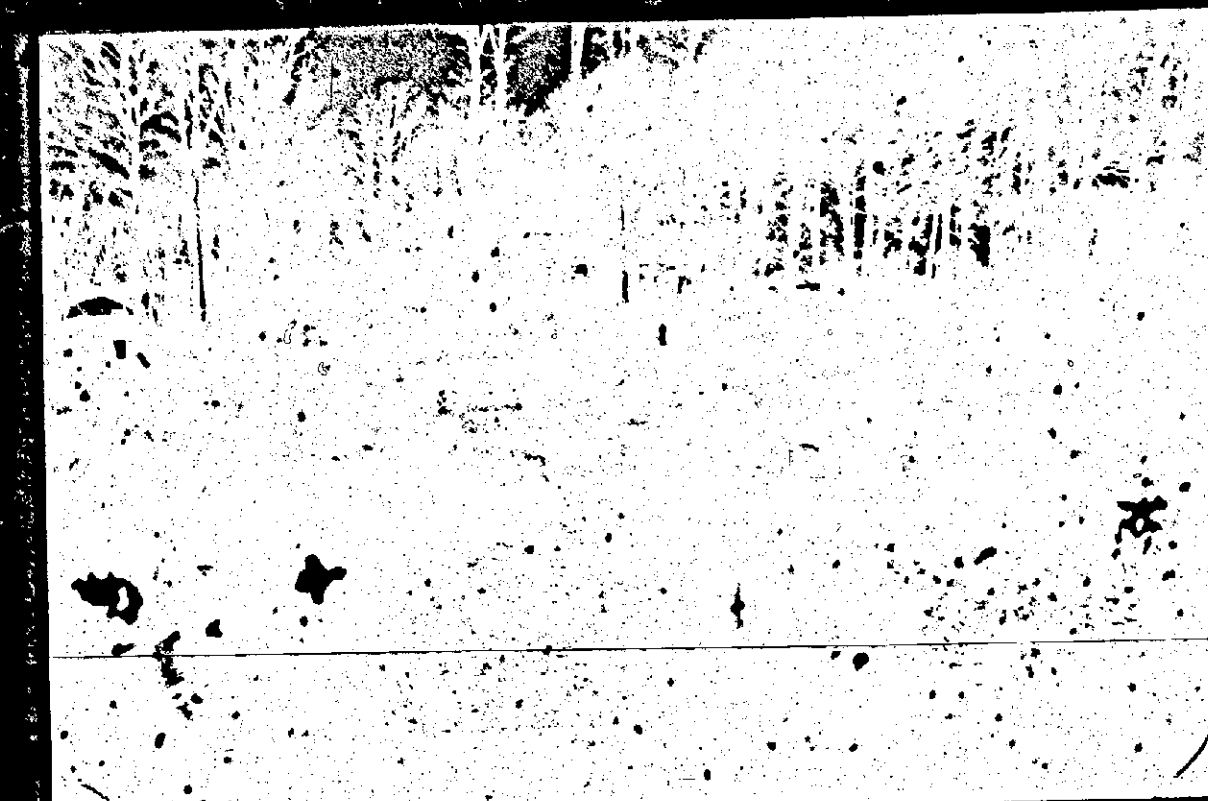
ESTIMATED LENGTH OF HEARING - 1/2 HR. (over)
 AVAILABLE FOR HEARING
 MON./TUES./WED. - NEXT TWO MONTHS
 ALL OTHER
 REVIEWED BY: C.A. DATE
 See C-89-2063



**PETITIONER'S
EXHIBIT 4**



A. VIEW FROM HIDDEN TRAIL DRIVE
FACING THE GEHER HOME



B. VIEW FROM FRONT OF GEHER
HOME FACING THE STREET
(HIDDEN TRAIL DRIVE). CIRCULAR
DRIVEWAY ON GEHER PROPERTY
VISIBLE



E. VIEW FROM WESTERN BOUNDARY
OF GEHER PROPERTY FACING THE
GEHER HOME.



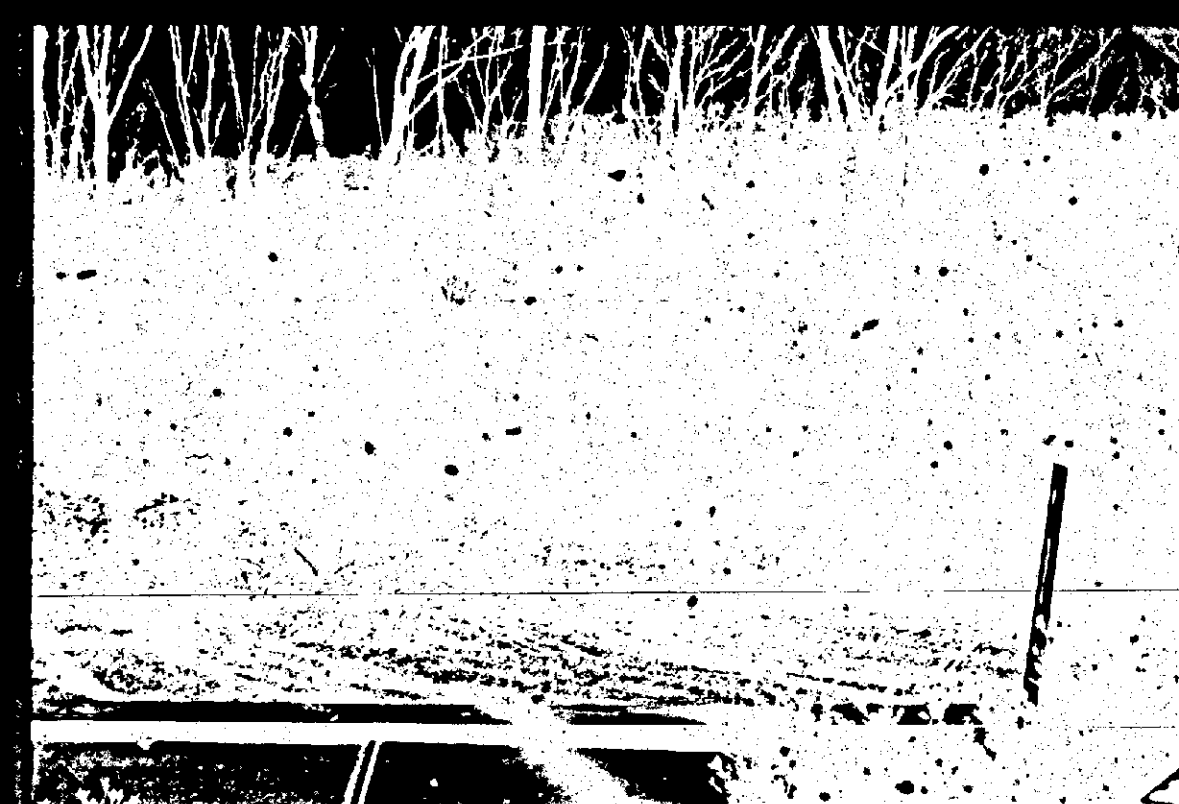
F. VIEW FROM EASTERN BOUNDARY
OF GEHER PROPERTY FACING
THE GEHER HOME. GARAGE
AND PART OF DRIVEWAY VISIBLE.



C. VIEW FROM GEHER PROPERTY
FACING WEST. SCHIFF
PROPERTY/HOME VISIBLE.



D. VIEW FROM GEHER PROPERTY
FACING EAST. PORTION OF
DRIVEWAY NEXT TO GEHER
GARAGE VISIBLE.



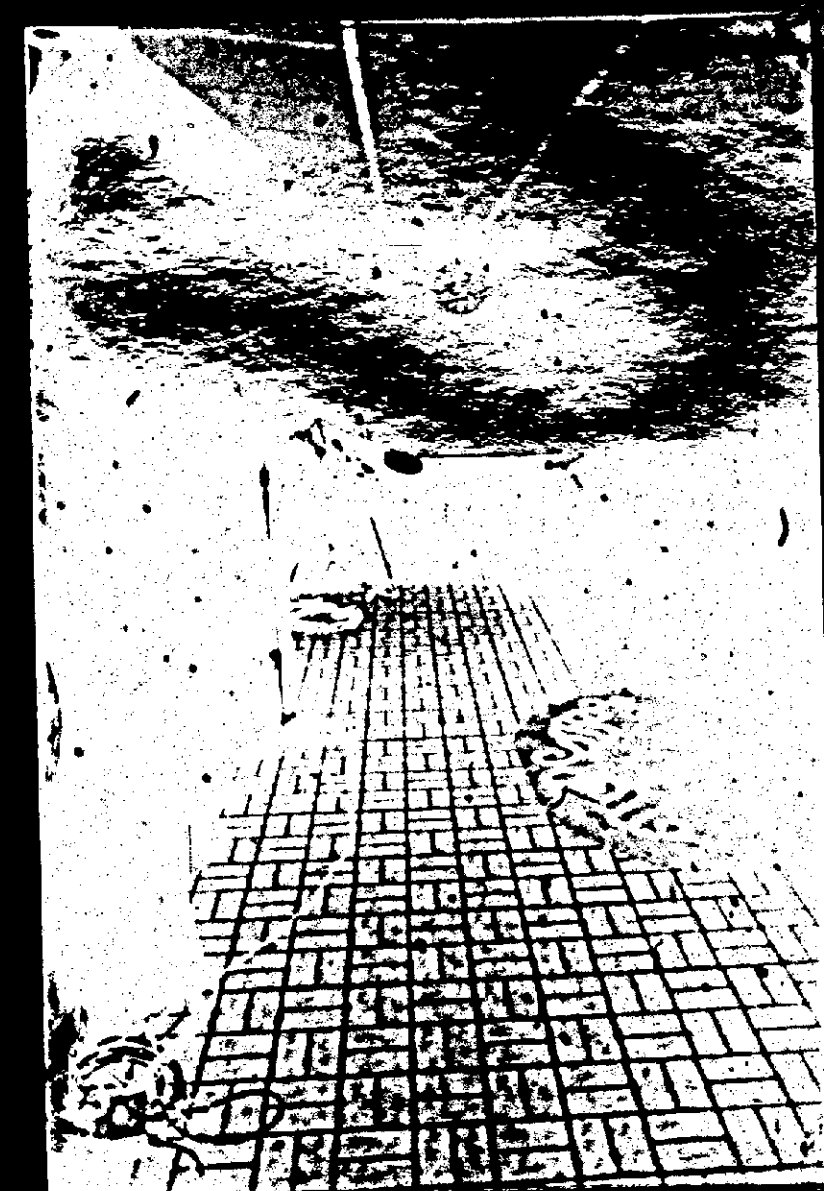
G. VIEW FROM BACK OF GEHER
HOME FACING SOUTH.



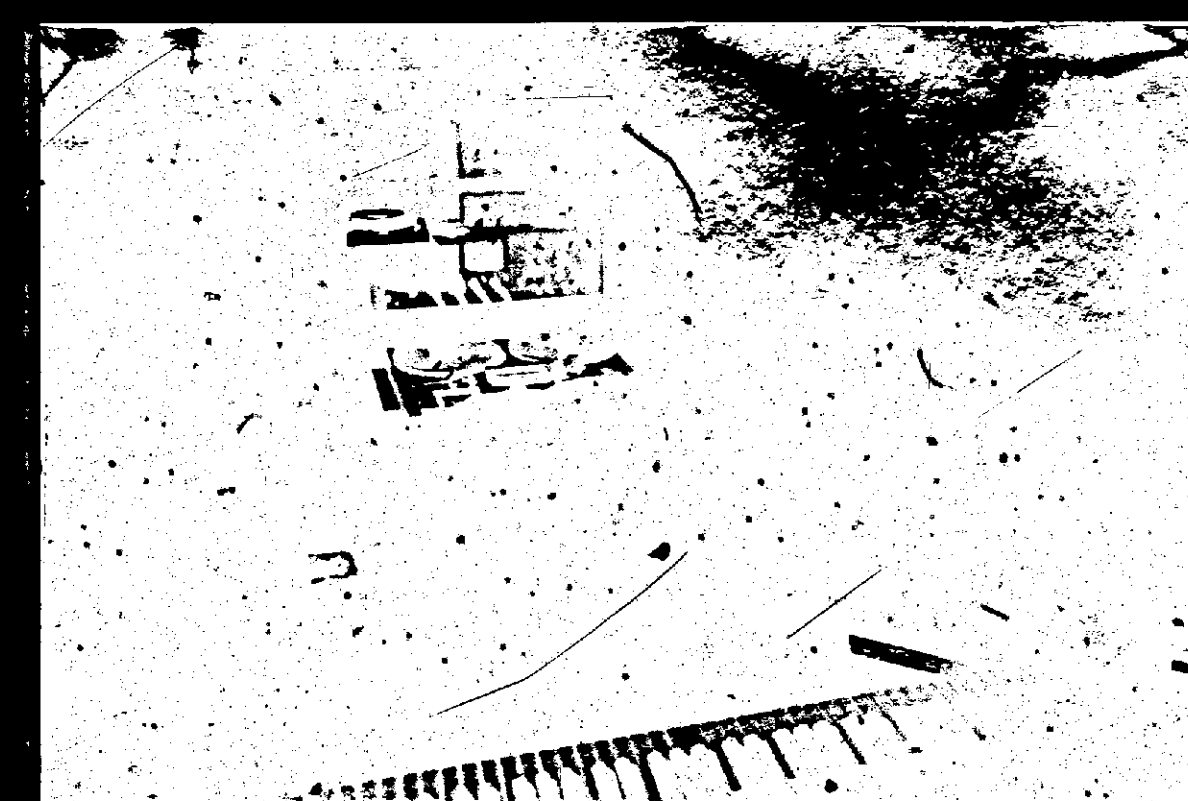
H. VIEW FROM NEAR THE REAR
BOUNDARY OF THE GEHER
PROPERTY FACING THE GEHER
HOME.



I. VIEW OF ARNOLD GEHER PERFORMING
IN THE BASEMENT STUDIO.



J. VIEW OF THE STUDIO.
(LONG VIEW).



K. Arnold IN THE STUDIO
BOOTH.



L. STUDIO BOOTH.

NOTICE OF HEARING
 The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21284 as follows:
 Petition for Special Exception
 Case number: 90-211-X
 11100 Hidden Trail Drive
 3rd Election District
 3rd Councilmanic
 Legal Owner(s): Arnold Geher, et ux
 Resident/Petitioner: Arnold Geher, et ux
 Hearing Date: Friday, Dec. 1, 1989 at 11:30 a.m.
 Special Exception: A musician's studio as an accessory use pursuant to B.C.Z.R. 1404.2(b)(10A).
 If the hearing is held on the date specified, a building permit will be issued for the property within the appeal period. The Zoning Commission will not accept any request for a stay of the hearing or for a continuance of the hearing for good cause shown. Such requests will be considered in the event of snow, telephone 887-3351 to confirm hearing date.
 NOTE:
 If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3351 to confirm hearing date.
 J. ROBERT HAINES
 Zoning Commissioner of Baltimore County
 11150 November 15, 1989

CERTIFICATE OF PUBLICATION

TOWSON, MD., November 30, 1989
 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Nov 16, 1989

THE JEFFERSONIAN,
 S. Zebe Olson
 Publisher

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21284
 (301) 887-3353
 J. Robert Haines
 Zoning Commissioner

DATE 11/29/89



Arnold Geher
 11100 Hidden Trail Drive
 Owings Mills, Maryland 21117

Re: Petition for Special Exception
 CASE NUMBER: 90-211-X
 585 Hidden Trail, 800' S of Shaded Brook Drive
 11100 Hidden Trail Drive
 3rd Election District - 3rd Councilmanic
 Legal Owner(s): Bernard Geher, et ux
 Resident/Petitioner: Arnold Geher
 HEARING: FRIDAY, DECEMBER 1, 1989 at 11:30 a.m.

Dear Petitioners:
 Please be advised that \$ 99.56 is due for advertising and posting of the above captioned property.

Baltimore County
 Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21284

receipt

Account: R-001-6150
 Number: M9000176
 12/01/89
 PUBLIC HEARING FEES QTY PRICE
 080 - POSTING SIGNS / ADVERTISING 1 X \$99.56
 TOTAL: \$99.56
 LAST NAME OF OWNER: GEHER

8 8 014*****9551* 7012F
 Please make checks payable to: Baltimore County
 Cashier Validation:

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21284
 (301) 887-3353
 J. Robert Haines
 Zoning Commissioner

November 3, 1989

NOTICE OF HEARING



Dennis F. Rasmussen
 County Executive

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Exception
 CASE NUMBER: 90-211-X
 585 Hidden Trail, 800' S of Shaded Brook Drive
 11100 Hidden Trail Drive
 3rd Election District - 3rd Councilmanic
 Legal Owner(s): Bernard Geher, et ux
 Resident/Petitioner: Arnold Geher
 HEARING: FRIDAY, DECEMBER 1, 1989 at 11:30 a.m.

Special Exception: A musician's studio as an accessory use pursuant to B.C.Z.R. 1404.2(b)(10A).

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commission will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

NOTE:
 If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3351 to confirm hearing date.

J. Robert Haines
 ZONING COMMISSIONER
 BALTIMORE COUNTY, MARYLAND

JRHigs-
 cct Petitioner
 E. Scott Johnson, Esq.
 File

IN THE MATTER OF * BEFORE THE ZONING COMMISSIONER
 ARNOLD GEHER et al. * OF
 1110 Hidden Trail Drive * BALTIMORE COUNTY
 Owings Mills, Maryland 21117 * Petition for Special Exception

AFFIDAVIT OF GEORGE E. BIGGS, JR.

I, George E. Biggs, Jr., being duly sworn do hereby depose and say:

- I reside at 2711 Halcyon Avenue, Baltimore, Maryland 21214, and an employed full time as a computer-aided draftsman by the architectural firm of Amos & Bailey, 106 W. North Avenue, Baltimore, Maryland 21201 and I have worked for Amos & Bailey in that capacity for approximately two years.
- On July 12, 1989 I went to the Geher home at 11100 Hidden Trail Drive to field measure and survey existing conditions in the Geher home for the purpose of determining the area of the basement music studio in relation to the overall area of the house and drafting a scale drawing of the basement.
- I carefully measured the entire basement and music studio area and placed all measurements into the existing as-built drawings of the house (drawn by James E. Evans on 10/17/83). From this I was able to create a computer drafted drawing of the entire basement to scale (1/4" = 1 foot).
- I calculated the area of the studio and the house overall by use of a Unisys computer running an "Autocad" program (an architectural drafting program). The studio occupies 725 square feet of the total house area of 6040 square feet. I included 50% of patio and deck space, and the entire garage into the overall square footage determination (without patio, deck or garage areas included, the total house area is 5298 square feet).

George E. Biggs, Jr.
 George E. Biggs, Jr.

CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 3rd Date of Posting: 11-7-89
 Posted for: Special P.X. captioned
 Petitioner: Bernard Geher et ux - Resident
 Location of property: SW part of Hidden Trail Dr. Sec 2, Sq. 4, Block 3, Tr. 1100, Hidden Trail Dr.
 Location of Signs: SW part of Hidden Trail Dr.
 Remarks: 11-10-89
 Posted by: S.J. Pratt
 Number of Signs: 1

STATE OF MARYLAND)
 COUNTY OF BALTIMORE)

SS:
 I hereby certify, as a notary public of the State and County above, that on the 27 day of July, 1989, George E. Biggs, Jr. appeared personally before me and gave oath and affirmed under penalties of perjury that the matters and facts as recited in the foregoing affidavit are true and correct to the best of his knowledge or based upon information contained in the company's records.

My Commission Expires: July 1 1990
 Notary Public
 (Seal of Notary Public)

IN THE MATTER OF * BEFORE THE ZONING COMMISSIONER
 ARNOLD GEHER et al. * OF
 1110 Hidden Trail Drive * BALTIMORE COUNTY
 Owings Mills, Maryland 21117 * Petition for Special Exception

AFFIDAVIT OF RAYMOND M. SCHIFF

I, Raymond M. Schiff, being duly sworn, do hereby depose and say:

- I own and reside at 11112 Hidden Trail Drive in Baltimore County, Maryland. My residence is adjacent to the Geher property at 11110 Hidden Trail Drive, and I am the closest neighbor to the Geher property. I have lived at this address since August, 1983, before the Gehers became my neighbors.
- I have become aware of the music studio operated by Arnold Geher in the basement of the Geher house at 11110 Hidden Trail Drive, and support the Gehers' Petition for a Special Exception to permit its continued existence. In my opinion, the studio is not in any way detrimental to the health, safety, or general welfare of the area because it involves the safe and productive activity of music-making, and is conducted in a private and inoffensive manner. There are no signs or other outward appearances that a music studio exists.
- The operation of the music studio has never created traffic congestion. My observation of the situation leads me to the opinion that there is no danger of such congestion at present or in the future.
- As the Gehers' next-door neighbor, I am in a good position to judge the day-to-day impact of the studio on the neighborhood and have seen no adverse effect. I cannot hear music or sounds emitting from the studio and only know of its existence because I was informed of it by the Gehers. In contrast, I can hear music from other houses in the area when music is played out of doors by portable radios or stereo systems and open doors or windows.

Raymond M. Schiff
 Raymond M. Schiff

STATE OF MARYLAND)
 COUNTY OF BALTIMORE)

SS:
 I hereby certify, as a notary public of the State and County above, that on the 17 day of July, Raymond M. Schiff appeared personally before me and gave oath and affirmed under penalties of perjury that the matters and facts as recited in the foregoing affidavit are true and correct to the best of his knowledge or based upon information contained in the company's records.

Notary Public
 (Signature)

My Commission Expires:
July 1 1990

K.L.S. CONSULTANTS, INC.
 ENGINEERS AND SURVEYORS
 43 EAST LEE STREET, BEL AIR, MARYLAND 21014

TELEPHONES
 301-838-1441
 301-838-1441
 301-878-4105

July 12, 1989 8980

ZONING DESCRIPTION
 PROPERTY OF GEHER

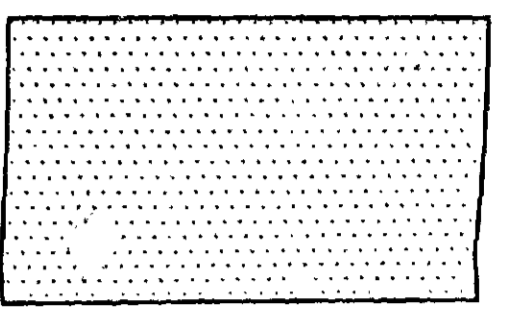
Beginning on the Southwest side of Hidden Trail Drive, 50 feet wide, at a distance of 800 feet more or less, South of the intersection with Shaded Brook Drive. Being known as Lot 84 in the subdivision of Valley Heights and recorded among the Plat Records of Baltimore County in Liber E.N.K., Jr., No. 40, Folio 37. Also known as 11110 Hidden Trail Drive, Owings Mills in the 3rd Election District, containing 2.99 acres of land, more or less.



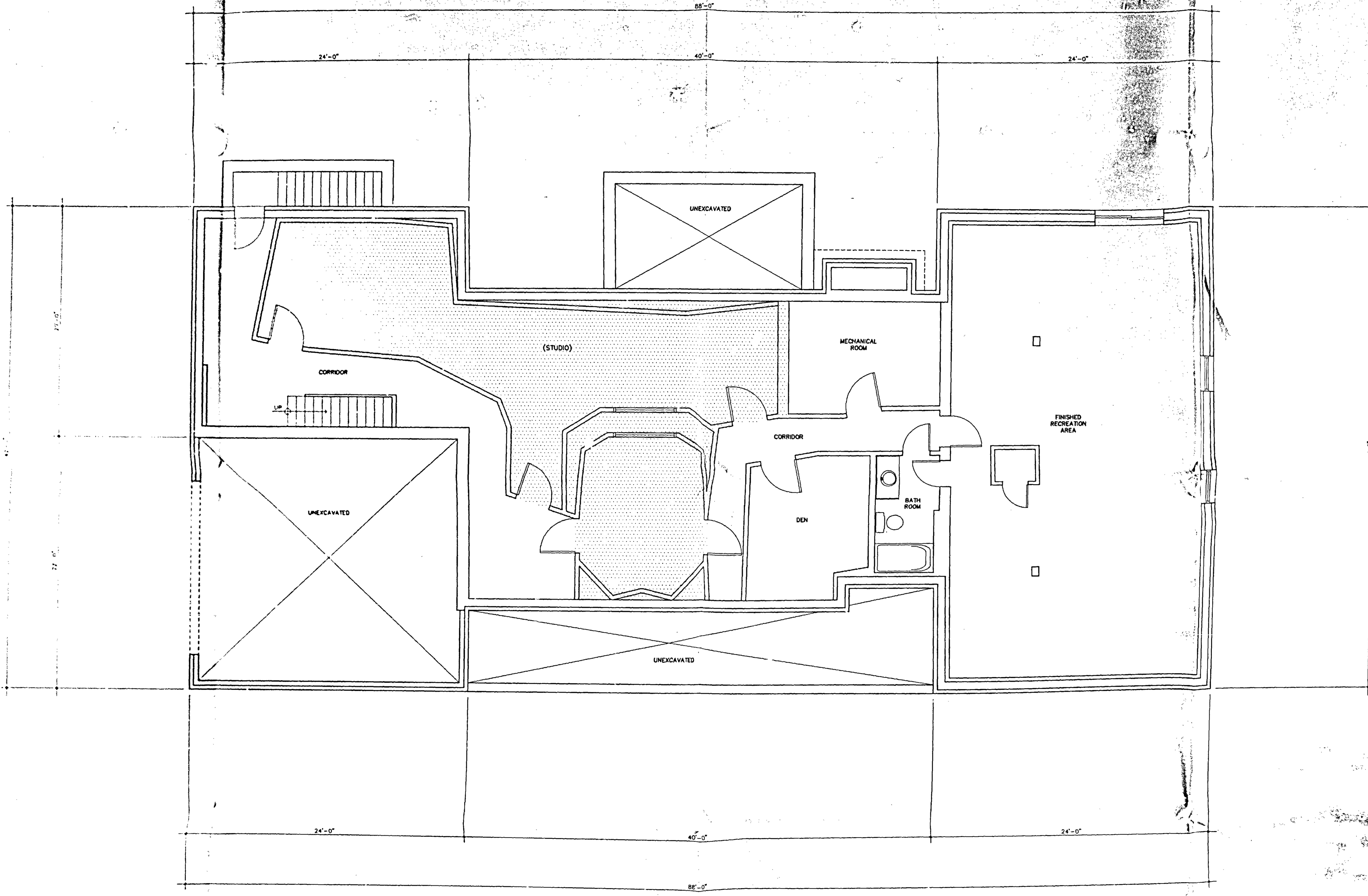
GROSS SQUARE FOOTAGE

FIRST FLOOR = 3380 SQ. FT.
BASEMENT = 2668 SQ. FT.
TOTAL = 6048 SQ. FT.

GROSS SQUARE FOOTAGE
OCCUPIED BY STUDIO (725 SQ.FT.)



INDICATES AREA OCCUPIED BY STUDIO



BASEMENT PLAN
1/4" = 1'-0"

DRAWN BY: George S. B...
2711 HALEN...
BETHLEHEM, PA. 17814

DATE OF SITE SURVEY: July 12, 1951

PETITIONER'S
EXHIBIT 23