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FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 <sup>TH</sup> FLOOR		
	SUBJECT	BMZA / 3551-3565 Keswick Road		

TO

Mr. David Tanner, Executive Director  
Board of Municipal and Zoning Appeals  
417 East Fayette Street, 14<sup>th</sup> Floor

DATE: April 20, 2012

### REQUEST

The Department of Planning has received Hal Arnold's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of Manu Rami and Keswick Auto Repair, to use the second floor of the premises as an office for automobile repairs and sales and automobile tag and title work. We understand that this appeal is scheduled for hearing on May 1, 2012.

### SITE

3551-3565 Keswick Road is located on the southeast corner of the intersection with 36<sup>th</sup> Street. This property measures approximately 108'7" by 65' and is currently improved with a one-story commercial building measuring approximately 64' by 32'. This site is zoned B-1-2 and is located within the Hampden National Register Historic District.

### ANALYSIS

**Use:** In this zoning district, automobile repair garages and used car sales are not listed as a permitted or conditional use, and so are not allowed (§6-206 to §6-209). In this case, the property was last authorized for use as an automobile laundry (car wash), and automobile repair garage with used automobile sales, which collectively are a nonconforming use in this B-1 Neighborhood Business District (by the Board's decision in appeal no. 350-09, approved July 21, 2009). However, offices: business, governmental, and professional, are listed as permitted uses in a B-1 District (§6-206).

**Expansion of Nonconforming Use:** Except as authorized by the Board under Subtitle 7 {"Modifications and Continuances by Board"} of this title, a Class III nonconforming use may not be expanded in any manner, nor may any structure be erected or expanded on any nonconforming use of land, unless the use of the land and structure is made to conform to the regulations of the district in which the structure is located (§13-406). See also §13-702 to §13-714.

**Extension or moving of Class I, II, or III Nonconforming Use:** The Board may authorize an extension of a Class I, Class II, or Class III nonconforming use, as limited and stated in §§ 13-206, 13-306, and 13-406 {"Expansions of use"} and §§ 13-208, 13-308, and 13-408 {"Relocations"} of this title, if the Board finds that: (1) the extension or moving will not cause a greater volume of traffic than that generated before the extension or move; (2) the extension or moving will not violate in any manner the bulk regulations of the district in which the property is located; (3) the effect of the extended or moved use on the health, safety, or general welfare of the community will be no worse than the existing or last use; (4) for the extension of a Class II or Class III nonconforming use, the extension will not result in an increase of the floor area of more than 25% beyond that which had been occupied or used when it became nonconforming; and (5) for an extension in the Critical Area: (i) there is no environmentally acceptable alternative outside the Critical Area; and (ii) the use is needed to correct an existing water quality or wastewater management problem (§13-714).

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The floor plan submitted with this application appears to show a new second floor with an area approximately as large as the area of the original automobile repair garage, automobile laundry, and used car sales building. Although the second floor offices would be accessed by exterior stairways, their intended use is part of and accessory to the existing nonconforming uses. As such, this application is for a 100% increase in the floor area of a nonconforming use, which exceeds the maximum amount of increase, in percentage, authorized by the Zoning Code.

**RECOMMENDATION**

The Department of Planning recommends disapproval of this appeal, because the amount of extension of the existing nonconforming use of the property would be approximately 100% in terms of floor area, which exceeds the maximum discretionary authority of the Board to approve not more than a 25% increase in floor area of a nonconforming use, as provided in the Zoning Code.

TJS/wya/mf

cc: Hal Arnold, Appellant