APPLICANTS: **Anderson Bus Company, Inc.** **and Anderson Bus Service, Inc.**	**BEFORE THE** **ZONING HEARING EXAMINER**
REQUEST: **Special exception to permit the storage** **of school buses in an Agricultural District**	**FOR HARFORD COUNTY** **BOARD OF APPEALS**
HEARING DATE: January 21, 2004	**Case No. 5387**

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Anderson Bus Company, Inc. and Anderson Bus Service, Inc.

LOCATION: 32 Darlington Road, Havre de Grace, Maryland /
Lands of Lawrence E. Anderson and Wife
Tax Map: 36 / Grid: 4E / Parcel: 109 / Lot: 3
Second Election District

ZONING: AG / Agricultural

REQUEST: Special exception to permit the storage of up to twenty-five (25) school buses in an AG District, pursuant to Section 267-53D(1).

TESTIMONY AND EVIDENCE OF RECORD:

First for the Applicants testified Gary Anderson. Mr. Anderson is the owner of Anderson Bus Company, Inc., and expects to eventually take over ownership of Anderson Bus Service, Inc., now owned by Mr. Anderson's father.

The Applicants have been in the bus business for many years, serving the Harford County Board of Education. The buses owned and operated by the Applicants serve various schools throughout the eastern part of Harford County. The proposed location, which is not far from their existing location, is seen by the Applicants as a good one. Mr. Anderson testified that the Harford County Board of Education had reviewed the proposed site and found it to be acceptable.

Mr. Anderson stated there would be little if any use of the proposed location at night. He does not plan to install any additional lighting. The typical schedule for the buses has them leave the property between 6:00 - 6:15 a.m., with the last bus returning by 9:15 a.m. The afternoon schedule consists of the buses leaving between 1:30 - 2:30 p.m. and returning between 4:00 - 4:45 p.m. Mr. Anderson stated that the buses would be backed into their parking spaces so that in the morning they would be able to leave by pulling directly forward. This would eliminate the activation of the back-up beepers on the buses.

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Gary Anderson lives on Lot 1, as shown on Applicant's Site Plan, Exhibit No. 2. He directly adjoins the proposed site. Next to Gary Anderson lives his brother, on Lot 2. Mr. Anderson described the area as rural, with small residential lots and scattered farms. Open farm land is located directly across Darlington Road from the subject property, with a saw mill located directly across Level Village Road from Lot 2. Lot 3, the proposed location of the bus storage area, contains an old barn which will be used as a small equipment storage area for the buses, and an existing house. A new house is being built to replace the existing house. The new house will be occupied by Mr. Anderson's parents.

Mr. Anderson described an existing double row of trees along the property boundary at Darlington Road, and extending along Lots 2 and 3. These trees are up to 60 feet tall. Mr. Anderson has also planted a double row along the existing driveway into Lot 3, and additional trees behind Lot 2. He expressed a willingness to plant additional trees, if necessary.

Mr. Anderson stated that, in his opinion, traffic along Darlington Road would not be impacted by the location of the buses at the proposed site. While the intersection of Darlington Road and Maryland Route 155 has been a problem in the past, the recent installation of a four way stop at that location has alleviated traffic back-ups. The driveway onto Darlington Road from the subject property is approximately 1500 feet from the four way stop at Maryland Route 155 and Darlington Road. He believes there is adequate sight distance turning into and out of the subject property. Mr. Anderson produced photographs showing the sight distances along Darlington Road.

Mr. Anderson stated that all employees and buses will be located within the proposed storage area, shown in blue on Applicant's Exhibit No. 2. That site will be approximately one-half (1/2) to three-quarters (3/4) acre in size, with the overall Lot 3 being 16.746 acres. The existing barn will be used for oil changes, bus lubrication and fluid replacement, tire changing, and light and lens repair. There will be an above-ground 1,000 gallon diesel fuel tank on the property. Mr. Anderson indicated that no other repair or maintenance will be performed on the property.

While Mr. Anderson indicated that the parking lot will not be paved with an all weather surface, Mr. McClune of the Harford County Department of Planning and Zoning, during subsequent testimony, indicated the parking area must be paved. The Applicant would also be required to meet Harford County Storm Water Management Regulations.

Mr. Anderson indicated that between his company and his father's company, a total of twenty (20) active school buses were operated, with two (2) spares. The Applicants, however, are asking for permission for up to twenty-five (25) school buses in order to account for future expansion. Mr. Anderson believes that none of his neighbors have any objection to the proposed use; in fact, he has received support by at least one of his neighbors. Mr. Anderson expressed a willingness to plant trees to fully enclose the proposed storage area. Existing trees are anywhere from 3 feet to 60 feet in height. He is willing to surround the remaining unscreened portion of the site with a double row of 3 to 4 foot high trees. He is also willing to maintain those trees, and replace them as necessary.

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Next for the Applicant testified Norman Seidel, Director of School Transportation for the Harford County Public School System. Mr. Seidel has known the Applicants since 1979, and testified they do an excellent job serving the Harford County School Board. The proposed site is in a good location to the bus routes which the Applicants are obligated to run, with the proposed location being centrally located for them. Mr. Seidel has visited the proposed site and feels it is a good site for the proposed use.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune discussed and expanded upon the report and recommendation of the Department of Planning and Zoning. Mr. McClune stated the Department feels that the Applicants can meet or exceed all applicable zoning requirements, including those of Section 267-53D(1). The entire bus storage area is or can be easily screened. Some additional planting will be necessary on one side of the area, with perhaps some additional, supplemental screening along the area which is presently planted.

The Applicants can also fully meet the requirements of Section 267-9I, Limitations, Guides, and Standards.

Mr. McClune and the Department feel there would be no impact on traffic, and particularly no impact on the Route 155 intersection. Mr. McClune feels that the proposed use would have no greater impact at the proposed location than it would from any other similar location within the zone.

The Department recommended approval with conditions.

There was no testimony or evidence presented in opposition.

APPLICABLE LAW:

This special exception request is governed by Section 267-53D(1) of the Harford County Code:

"D. Motor Vehicle and related services.

(1) Commercial vehicle and equipment storage and farm vehicle and equipment sales and service. These uses may be granted in the AG District, and commercial vehicle and equipment storage may be granted in the VB District, provided that:

(a) The vehicles and equipment are stored entirely within an enclosed building or fully screened from view of adjacent residential lots and public roads.

(b) The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.

(c) A minimum parcel area of two (2) acres shall be provided.

Furthermore, Section 267-9I of the Harford County Code, Limitations, Guides, and Standards, is applicable to this as all other similar requests.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A special exception, by definition, is considered to be part of Harford County's comprehensive zoning plan and shares the presumption that it is in the interest of general welfare and, therefore, valid. Rockville Fuel and Feed v. Board of Appeals, 257 Md. 183 (1970). It does not need to be shown to be generally compatible with other uses. It is presumed to be so. Rather, to be denied, a showing must be made, and findings entered, that it will have an adverse effect which is greater at the particular location proposed than would be those effects normally associated with that use. Mossburg v. Montgomery County, 352 Md. 619 (1999). No such adverse showing was made, and no adverse impact is found.

Accordingly, this requested special exception must be approved if it meets the specific requirements of Section 267-53D(1).

The Applicant has presented uncontradicted testimony, supported by the Department of Planning and Zoning, that the pertinent requirements will be met. It is accordingly found as matters of fact: (1) The vehicles in question are commercial vehicles; (2) This in an agricultural district; (3) The vehicles are now or will be fully screened from the view of all adjacent residential lots and public roads; and (4)A minimum parcel area of 2 acres is provided.

Furthermore, the Applicant clearly meets all requirements of Section 267-9I, as follows:

(1) The number of persons living or working in the immediate area.

The area is predominantly Agricultural with no major residential developments near the property. The area is mostly rural-residential and farm land.

(2) Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.

The sight distance from the property in all directions is very good and the buses should not have an impact on traffic in the area. The site is far removed from the intersection of Maryland Route 155 and Darlington Road, which has recently been significantly improved.

(*3*) *The orderly growth of the neighborhood and community and the fiscal impact on the County.*

There will be no impact on the growth of the neighborhood.

(4) The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.

The storage of the buses should have little impact on the immediate surrounding area regarding the above issues. The Applicants and their family live on the subject property and the immediate adjacent lots to the south. No major repairs will be performed on site.

(5) Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the County or persons to supply such services.

The Maryland State Police and the County Sheriff's Department will continue tp provide policy protection to the area. The Level Volunteer Fire Department, which is located within ½ mile of the subject property will provide fire protection.

(6) The degree to which the development is consistent with generally accepted engineering and planning principles and practices.

The use is permitted in the Agricultural District with special exception approval. The proposal is consistent with generally accepted planning principles.

(7) The structures in the vicinity, such as schools, houses or worship, theaters, hospitals, and similar places of public use.

No such structures have been identified.

(8) The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.

The proposal is consistent with the intent of the Master Plan.

(9) The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.

There is no showing of any such potential impact.

(10) The preservation of cultural and historic landmarks.

No such landmarks have been identified.

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CONCLUSION:

For the above reasons the requested special exception is hereby approved, subject to the following conditions:

1. The Applicants prepare a detailed site plan for review by the Development Advisory Committee. Said site plan shall be substantially identical to that presented at the hearing, and accepted as Applicants Exhibit No. 2.

2. The number of buses shall be limited to a total of twenty-five (25), including spares.

3. The Applicants shall plant and maintain an existing screening of trees to completely surround the bus storage area as shown on Applicants Exhibit No. 2. These plantings shall incorporate existing screening, and shall, where necessary, include new plantings not less than 4 feet tall, double row, so as to provide a complete screen of the bus storage area.

4. All buses shall back into their parking spaces or be parked in such a way so as to not require their back-up beepers to be activated in the morning.

5. The Applicants shall be limited to the following maintenance on the subject property: normal lubrication; normal fluid change, including hydraulics, brake oil, and anti-freeze; tire repair and changing; and miscellaneous minor repairs such as light and lens replacement.

6. Applicants shall be prohibited from any other repair activities not specifically allowed herein.

7. The Applicants shall be limited to the storage of no more than 1,000 gallons of diesel fuel on site.

8. The subject property shall be maintained in a clean and orderly condition

9. No lighting or signage of any type in view of passers-by or neighbors shall be permitted.

Date: February 11, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner