

Aguila-Ilze

From: Tolpin-Devin
Sent: Friday, January 20, 2023 12:21 PM
To: Andrew M. Tobin; Schemper-Emily
Cc: Board; Dottie Moses; 'Susan Holler'; joy@joycmartin.com; Aguila-Ilze
Subject: RE: Anthony's - 7-Eleven - County File 2022-206

Thank you for the comments, Mr. Tobin. We will add these comments to file; note that there was not an attachment sent with this email. If you would like the attachment you had referenced added to the file, please send an additional email.

Thank you,

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From: Andrew M. Tobin <tobinlaw@terranova.net>
Sent: Friday, January 20, 2023 12:01 PM
To: Tolpin-Devin <Tolpin-Devin@MonroeCounty-FL.Gov>; Schemper-Emily <Schemper-Emily@MonroeCounty-FL.Gov>
Cc: Board <rockharboresates@gmail.com>; Dottie Moses <dpmoses@bellsouth.net>; 'Susan Holler' <suz@susankholler.com>; joy@joycmartin.com
Subject: RE: Anthony's - 7-Eleven - County File 2022-206

...

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(Resent with correct email address)

Good morning Devin,

I finally had a chance to look at FAC 14-97.003 (attached) and do not understand how it applies or supports the variance.

The Narrative (attached) states in part:

“The total length of this parcel is 294 feet ; the proposed connections are spaced as far apart as is possible on the site and will be approximately 150 feet apart (146.5 ft. on the southbound and 147 on the northbound). FAC 14-97.003

recommends connections on Access Class 5 roadways with 45 mph, to be spaced 245 feet apart.

In fact, subsection (3) (b) is consistent with the County's requirements that requires conformance (to the maximum practical) to current standards when significant changes occur."

“(b) Existing lawful connections, median openings, and signals are not required to meet the access management standards. Existing access management features will generally be

allowed to remain in place, but shall be brought into conformance with access management standards when significant change occurs or as changes to the roadway design allow.”

See also section (3) (d) which requires “greater distances” for safety reasons.

(d) Greater distances between connections and median openings will be required by the Department where necessary to meet operational and safety requirements. In these instances, the Department shall make such determination based on generally accepted professional practice standards.

Finally, I understand that FDOT identifies different “classes” of roadway but I cannot find any authority for treating Anthony (or the U.S. 1 segment) differently with respect to 400 foot curb cut requirement.

Thank you again for your professional courtesies.

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RSA 14-97.003

Section 14-97.003 - Access Control Classification System and Access Management Standards

(1) The following tables contain the access control classification and access management standards to be used in the planning, design, and permitting of connections, and the planning and design of medians, median openings, and signal spacing for roads on the SHS. The Department encourages the use of joint access driveways and service roads.

Table 1 Access Management Standards for Limited Access Facilities

Access Class	Segment Location	Applicable Interchange Spacing Standard
1	Area Type 1 - CBD & CBD Fringe for Cities in Urbanized Areas	1 Mile
	Area Type 2 - Existing Urbanized Areas Other Than Area Type 1	2 Miles
	Area Type 3 - Transitioning Urbanized Areas and Urban Areas Other Than Area Type 1 OR 2	3 Miles
	Area Type 4 - Rural Areas	6 Miles

Table 2

Access Management Standards for Controlled Access Facilities

Access Class	Median Spacing Standard (feet)	Median Opening Spacing Standard (feet)	Signal Spacing Standard (feet)	Connection
Full	Directional	Posted Speed Greater than 45 MPH	Speed of 45 MPH of Less	
2	Restrictive	2,640	1,320	2,640 1,320 660
3	Restrictive	2,640	1,320	2,640 660 440
4	Non-Restrictive	2,640	660	440
5	Restrictive	2,640 Posted Speed Greater than 45 MPH 1,320 Posted Speed of 45 MPH or Less	660	2,640 Posted Speed Greater than 45 MPH 1,320 Posted Speed of 45 MPH or Less 440 245
6	Non-Restrictive	1,320	440	245

	Both					
7	Median Types	660	330	1,320	125	125

The interim standards contained in subsection RSA 14-97.004<subdiv>(1)</subdiv>, F.A.C., shall be used for any unclassified segment of the SHS until replaced by an adopted access classification.

(2) Access Control Classification. The seven access classes are described as follows:

(a) Access Class 1 consists of limited access facilities, which roadways do not provide direct property connections. These roadways provide for high speed and high volume traffic movements serving interstate, interregional, and intercity, and, to a lesser degree, intracity, travel needs. Interstate highways and Florida's Turnpike are typical of this class. The interchange spacing standards, based on the Area Type the highway is passing through, are for the through lanes or main line of the facility. New interchanges to Access Class 1 facilities shall be based on an engineering analysis of the operation and safety of the system. These interchanges can only be approved through the interchange justification process. Approval by the Department and FHWA is required before any new interchange is constructed.

(b) Access Classes 2 through 7 consist of controlled access facilities and are arranged from the most restrictive (Access Class 2) to the least restrictive (Access Class 7) class based on development. Generally the roadways serving areas without existing extensive development are classified in the upper portion of the range (Access Class 2, 3, and 4). Those roadways serving areas with existing moderate to extensive development are generally classified in the lower portion of the range (Access Class 5, 6, and 7). The access management standards for each access class are further determined by the posted speed limit.

1. Access Class 2 roadways are highly controlled access facilities distinguished by the ability to serve high speed and high volume traffic over long distances in a safe and efficient manner. This access class is further distinguished by a highly controlled limited number of connections, median openings, and infrequent traffic signals. Segments of the SHS having this classification usually have access restrictions supported by local ordinances and agreements with the Department, and are generally supported by existing or planned service roads.

2. Access Class 3 roadways are controlled access facilities where direct access to abutting land is controlled to maximize the operation of the through traffic movement. The land adjacent to these roadways is generally not extensively developed and/or the probability of significant land use change exists. These roadways are distinguished by existing or planned restrictive medians.

3. Access Class 4 roadways are controlled access facilities where direct access to abutting land is controlled to maximize the operation of the through traffic movement. The land adjacent to these roadways is generally not extensively developed and/or the probability of significant land use change exists. These roadways are distinguished by existing or planned non-restrictive median treatments.

4. Access Class 5 roadways are controlled access facilities where adjacent land has been extensively developed and where the probability of major land use change is not high. These roadways are distinguished by existing or planned restrictive medians.

5. Access Class 6 roadways are controlled access facilities where adjacent land has been extensively developed, and the probability of major land use change is not high. These roadways are distinguished by existing or planned non-restrictive medians or centerlines.

6. Access Class 7 roadways are controlled access facilities where adjacent land is generally developed to the maximum feasible intensity and roadway widening potential is limited. This classification shall be assigned only to roadway segments where there is little intent or opportunity to provide high speed travel. Exceptions to access management standards in this access class may be allowed if the landowner substantially reduces the number of connections compared to existing conditions. These roadways can have either restrictive or non-restrictive medians.

(3) Access Management Standards.

(a) Connection permit applications, submitted pursuant to Rule Chapter 14-96, F.A.C., shall be reviewed subject to the standards of this rule chapter.

(b) Existing lawful connections, median openings, and signals are not required to meet the access management standards. Existing access management features will generally be allowed to remain in place, but shall be brought into conformance with access management standards when significant change occurs or as changes to the roadway design allow.

(c) A property that cannot meet the access management standards for a connection, as set forth herein, is eligible to be permitted by the Department for a single connection pursuant to Rule Chapter 14-96, F.A.C., where there is no other reasonable access to the SHS and the connection will not create a safety or operational hazard.

(d) Greater distances between connections and median openings will be required by the Department where necessary to meet operational and safety requirements. In these instances, the Department shall make such determination based on generally accepted professional practice standards.

(e) Adjacent properties under common ownership shall be considered one parcel for purposes of this rule. Persons requesting connections for one or more adjacent properties under common ownership may, however, as a part of the Rule Chapter 14-96, F.A.C., permit process, request that the properties be considered individually for connection permitting purposes. Such requests shall be included as part of the permit application and shall provide specific analyses and justification of potential safety and operational hazards associated with the compatibility of the volume, type or characteristics of the traffic using the connection. A contract for sale, a long term lease, or similar document shall constitute separate ownership from the parent tract for the purpose of this rule chapter, if the sale

would not result in common ownership. A connection permit issued based on a contract for sale will be conditioned on transfer of the property to the buyer.

(f) The speed criteria referred to in Table 2, Access Management Standards for Controlled Access Facilities, and in the Interim Access Management Standards in Table 3, means the posted speed limit at the proposed connection location.

(g) Corridor Access Management Plans may be adopted by the Department in coordination with local governmental entities. These plans shall be based on an analysis by the Department using generally accepted professional practice standards and will provide corridor specific access management and traffic control features. Before the adoption of such plans, the Department shall notify affected local governments and abutting property owners and shall hold a public meeting, if requested. After consideration of public input, the Department shall, in cooperation with the affected local government, finalize the plan.

(h) Interchange Areas. Connections and median openings on a controlled access facility located up to 1/4 mile from an interchange area or up to the first intersection with an arterial road, whichever distance is less, shall be more stringently regulated to protect safety and operational efficiency of the SHS, as set forth below:

1. The 1/4 mile distance shall be measured from the end of the taper of the ramp furthest from the interchange.

2. With the exception of Access Class 2 facilities with posted speed limits over 45 MPH, the distance from the interchange ramp(s) to the first connection shall be at least 660 feet where the posted speed limit is greater than 45 MPH, or at least 440 feet where the posted speed limit is 45 MPH or less. This distance will be measured from the end of the taper for that particular quadrant of the interchange on the controlled access facility. For Access Class 2 facilities with posted speed limits over 45 MPH, the distance to the first connection shall be at least 1,320 feet.

3. The standard distance to the first full median opening shall be at least 2,640 feet as measured from the end of the taper of the off ramp.

4. Greater distances between proposed connections and median openings will be required when the Department determines, based on generally accepted professional practice standards, that the engineering and traffic information provided in the Rule Chapter 14-96, F.A.C., permit application shows that the safety or operation of the interchange or the limited access highway would be adversely affected.

(i) Traffic signals, which are proposed at intervals closer than the access management standard for the designated access class, will only be approved where the need for such signal(s) is clearly demonstrated for the safety and operation of the roadway and approved through the signal warrant process.

RSA 14-97.003

Rulemaking Authority RSA 334.044(2), RSA 335.182, RSA 335.184, RSA 335.188 FS.
Law Implemented RSA 334.044(10)(a), RSA 335.182, RSA 335.188, 338.001 FS.
New 2-13-91, Amended 10-7-09.



VARIANCE NARRATIVE

Variance Narrative

7-Eleven Access Separation Variance, 98200 Overseas Hwy, Key Largo

1. The applicant shall demonstrate a showing of good and sufficient cause for granting the variance.

The total length of this parcel is 294 feet; the proposed connections are spaced as far apart as is possible on the site and will be approximately 150 feet apart (146.5 ft on the southbound and 147 on the northbound). FAC 14-97.003 recommends connections on Access Class 5 roadways with 45 mph, to be spaced 245 feet apart. The applicant is requesting a 99-foot reduction in the required separation distance for curb cuts. The site currently contains four curb cuts designed each with two-way movements (both entry and exit) from the site. The proposed site is designed to maintain the same number of curb cuts but limit the movements to entrance only and exit only from the northbound and southbound lanes. Single direction movements at each of the connections, were recommended by FDOT and will improve the safety of vehicles entering and exiting the site. Additionally, the entrance has been designed at the furthest curb cut to allow vehicles the entire length of the property to slow and enter; an 80-foot deceleration lane is proposed. This will allow traffic to see the 7-Eleven, use a turn signal, exit the main roadway to slow and turn into the site. The deceleration lane is currently in review with FDOT and is not guaranteed, a pre-application meeting has been held with FDOT, but no formal review has been completed.

2. Failure to grant the variance would result in exceptional hardship to the applicant.

The site currently contains four curb cuts with entrance and exit at each point. Providing separate single direction driveways into and out of the site will decrease the number of potential traffic conflict points and reduce the number of accidents at this location. If the applicant is required to provide both an entrance and an exit from the same curb cut, the site will have poor circulation and a higher potential for accidents. The separate left-in, with a deceleration lane, and left-out access points will improve vehicle maneuverability on the site and make entering and exiting the highway safer.

3. Granting the variance will not result in increased public expenses, create a threat to public health and safety, create a public nuisance or cause fraud or victimization of the public.

Allowing the development of this site, with the variance, will not result in any expense to the public. Accessing the site will be safer because traffic will move into the deceleration lane and slow before entering the site, this will decrease the number of accidents which could happen at this location and reduce the demand for emergency services. Additionally, development of a site which is able to safely allow traffic to exit and enter the highway will minimize traffic impacts experienced by residents traveling in the area.

4. Property has unique or peculiar circumstances, which apply to this property, but which do not apply to other properties in the same zoning district.

This property is unique because it has four existing entrance and exit points and it is encumbered by three right of way easements. The property currently has two, dual-movement entrances from both the north and south bound highway lanes. This property is impacted by increased setbacks from three rights of way; it is subject to two front setbacks of 25 feet on the north and south sides and a secondary front setback of 15 feet from Grand Street, on the west side of the parcel. The required primary front setbacks along both sides of the length of the property and a lesser front setback along one of the shorter sides of the parcel, means the site is quite constrained and more than 35% of the property is designated as required setbacks. Due to the required setbacks, the building and tanker fueling location options are limited and all potential designs cut off access to the adjacent Grand Street right of way. On this property, with its limitations, maintaining four curb cuts and limiting the use of the drives to enter-only and exit-only, as directed by FDOT, will make site access safer and improve circulation. Additionally, the entrance is located at the furthest curb cut and a deceleration lane is proposed to allow traffic adequate time to slow. The deceleration lane is currently being reviewed by FDOT.

5. Granting the variance will not give the applicant any special privilege denied other properties in the immediate neighborhood in terms of the provisions of the code or established development pattern.

Granting the additional curb cut will not give the applicant any special privilege denied to other properties in the immediate neighborhood. Based on an aerial view of the existing development pattern, it appears that many properties have been granted similar variances to ensure the safe and convenient movement of traffic into and out of the sites. Additionally, the site already contains four entrances and the proposed site layout will limit the access points to entrance only and exit only, as was recommended by FDOT. By providing a deceleration lane and the entrance at the far end of the property, the new proposed layout would be an improvement to the current layout and would also be safer than providing only a single curb cut to enter and exit the highway.

6. Granting the variance is not based on disabilities, handicaps or health of the applicant or members of his family.

The variance is not based on any disability, handicap or the health of the applicant or family members.

7. Granting the variance is not based on domestic difficulties of the applicant or his family.

The variance is not based on any domestic difficulties, only by an interest in ensuring safe access and circulation on this particular site.

8. The variance is the minimum necessary to provide relief to the applicant.
The entrances on the proposed site layout are designed at the furthest points apart to give maximum separation distance. The proposed entrances are 146.5 and 147 feet apart. The minimum variance necessary to accommodate this use and provide for the safe entry, exit and circulation of the site is 99 feet less than the required 245 feet separation listed in FAC 14-97.003.