



GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION
123 W. Indiana Avenue, DeLand, FL 32720
(386) 736-5959

PUBLIC HEARING: September 12, 2017 Planning and Land Development Regulation Commission (PLDRC)

CASE NO: V-17-066

SUBJECT: A variance to section 72-206(1) to separate nonconforming lots on Urban Two-Family Residential (R-6) and Urban Single-Family (R-4) zoned property.

LOCATION: 110 Avalon Drive, Ormond Beach

APPLICANT(S): Lawrence Day

OWNER(S): Lawrence and Polly Day

STAFF: Susan Jackson, AICP, Senior Planning Manager

I. SUMMARY OF REQUEST

The applicant has applied for a variance to section 72-206(1) to allow a nonconforming lot, which was previously under combined ownership with the lots to the west, to be separated. The lots have been under separate ownership since December, 2003. Since then, the subject parcel has changed ownership twice more. The current owners purchased the property in August, 2016 and desire to build a single-family home upon it. They are unable to obtain building permits due to the nonconforming status of the lot. To rectify this situation, the applicant is requesting this variance in order to establish the lot as a legal nonconforming lot that is eligible for building permits.

Variance request: A variance to section 72-206(1) Nonconforming Lots, to separate parcel 3221-01-00-1070 (Lot 107) from parcel 3221-01-00-1050 (Lots 105 and 106) on Urban Two-Family Residential (R-6) and Urban Single-Family Residential (R-4) zoned property.

Staff recommendation:

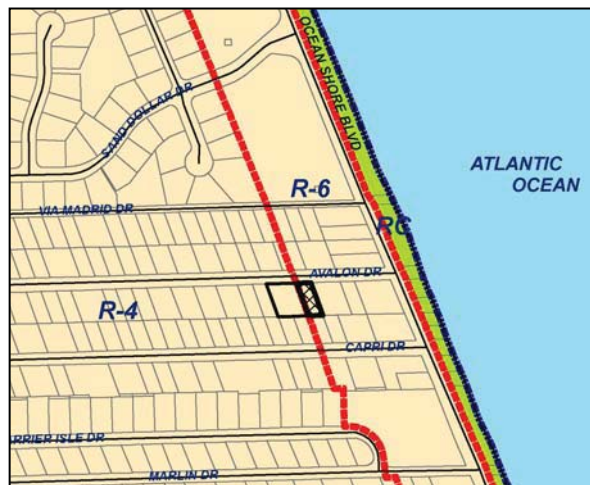
Approve variance request, case number V-17-066, as it meets all five criteria for granting said variance.

II. SITE INFORMATION

- 1. Location: South side of Avalon Drive, approximately 300 feet west from its intersection with Ocean Shore Boulevard (SR A1A) in Ormond Beach.
- 2. Parcel No(s): 3221-01-00-1070 and 3221-01-00-1050
- 3. Property Size: Parcel 3221-01-00-1070 is 6,095 square feet
Parcel 3221-01-00-1050 is 12,190 square feet
- 4. Council District: 4
- 5. Zoning: R-6 and R-4
- 6. Future Land Use: Urban Medium Intensity
- 7. ECO Overlay: No
- 8. NRMA Overlay: No
- 9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North:	R-4/R-6	Urban High and Medium Intensity	Developed Single-family Residential Lots
East:	R-6	Urban Medium Intensity	Developed Single-family Residential Lots
South:	R-4/R-6	Urban Medium Intensity	Vacant and Developed Single-Family Residential Lots
West:	R-4	Urban Medium Intensity	Developed Single-Family Residential Lots

10. Location Maps:



Zoning Map



Future Land Use Map

III. BACKGROUND AND PREVIOUS ACTIONS

The applicant is the owner of Lot 107 of the Avalon-by-the-Sea subdivision. The property is zoned Urban Two-family Residential (R-6), which requires minimum lot size of 75 feet in width and 7,500 square feet in area. The property is nonconforming with these standards. It is 53 feet wide by 115 feet deep, with an area of 6,095 square feet. In such cases where a nonconforming lot has been in common ownership with adjacent lots, the lots are required to stay connected in order to meet or approximate the minimum zoning standards. Thus, in order for a single nonconforming lot to be eligible for a building permit, a variance to this requirement is necessary.



In this case, the Avalon-by-the-Sea subdivision was approved and recorded in November 1952, prior to current zoning regulations. The subject property is representative of the predominant lot size within the subdivision. In 1962, the North Peninsula zoning ordinance was adopted and the subdivision was zoned R-1. The R-1 zoning regulations at that time required lots to be a minimum of 70 feet wide and 7,000 square feet in area, rendering the existing lot pattern nonconforming. In July 1980, the subdivision was again rezoned to R-4 and R-6. The subject property is on the demarcation line and is zoned R-6. As stated above, the R-6 zoning standards, now applicable to the subject property, require a minimum lot width of 75 feet and lot area of 7,500 square feet. Thus, the lot remains nonconforming due to administrative rezoning of the area.



Through title research, the ownership history indicates that Lot 107 was owned in common with Lots 105 and 106 from November, 2001 to December, 2003. Since that time, Lot 107 has changed ownership as a single lot two more times and is now owned by the Days.

Lots 105/106 were combined in August 2000, with a home constructed upon the combined lots in 2001. Since August 2000, ownership to lots 105/106 has changed once, in 2017.

The new owners of Lot 107 purchased it in August, 2016, with the intent to build their home

upon it. They submitted a building permit application in June, 2017, after which they were informed that the lot is nonconforming and ineligible for a permit without an acceptable nonconforming lot letter. In order for the lot to be eligible for a building permit, approval of a variance to separate the lot from the adjacent lots that it was previously in common ownership with is required. If approved, the property will then be considered a legal nonconforming lot and a building permit may be issued.

REVIEW CRITERIA AND ANALYSIS

Section 72-379(1)a.4 *Variances* of the zoning code contains five applicable criteria by which a variance application may be granted. The following staff evaluation is based on these criteria:

i. Special conditions and circumstances exist which are peculiar to the land, structure, sign, or building involved and which are not applicable to other lands, structures, signs, or buildings in the same zoning classification.

The Avalon-by-the-Sea subdivision was originally platted in 1952, with a typical lot pattern of approximately 50 feet wide by 115 feet deep. Since that time, the area has been administratively rezoned twice, rendering this typical lot pattern nonconforming. Also, the nonconforming status of the lots is not readily apparent as many of these original lots contain homes, which gives the impression that they are 'good' buildable lots. It often isn't known that they are nonconforming until a building permit is sought. The variance meets this criterion.

ii. The special conditions and circumstances do not result from the actions of the applicant.

The owners are not responsible for the administrative rezonings of the area that occurred in 1962 and 1980 that rendered the lots nonconforming. This variance meets this criterion.

iii. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification, under the terms of the ordinance, and would work an unnecessary and undue hardship on the applicant.

Many other properties in the same subdivision are the same size and developed with homes. Literal interpretation of the provisions of this ordinance would deprive the applicant of the same opportunity as it would render this lot ineligible for zoning approval of a permit. This variance meets this criterion.

iv. The variance granted is the minimum variance that will make possible the reasonable use of the land, building, structure, or sign.

This variance request is the minimum variance that will allow Lot 107 to be separated from Lots 105/106, and thus be considered a legal nonconforming lot. This variance meets this criterion.

v. The grant of the variance will be in harmony with the general intent and purpose of this ordinance and the Volusia County Comprehensive Plan Ordinance No. 90-10, as amended, and that such variance will not be injurious to the area involved.

Granting this variance will allow this lot to be developed with a single-family home. The neighborhood is already developed with many homes on the same sized lots. This variance will be in harmony with the general development pattern of the subdivision and will not be injurious to the area. This variance meets this criterion.

IV. STAFF RECOMMENDATION

Approve variance request, case number V-17-066, as it meets all five criteria for granting said variance.

VI. ATTACHMENTS

- Applicant's Written Petition
- Survey
- Maps

VII. AUTHORITY AND PROCEDURE

The commission may, except as otherwise provided in Section 72-379 of the zoning code, authorize, after due public notice upon application on a form prescribed by the zoning enforcement official, such variance or variances from the terms of this ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provision of this ordinance would result in unnecessary and undue hardship. Said variance application shall be heard only if it is presented by the person owning 51 percent or more of the specific area of land involved or upon an administrative application by the county council.

Any new information to be presented at the planning and land development regulation commission meeting for any application will be grounds to continue an application to the next planning and land development regulation commission meeting. Applicants shall inform and provide staff with the new information prior to the planning and land development regulation commission meeting.

VOLUSIA COUNTY
WRITTEN PETITION FOR A VARIANCE

Section 72-379(1)(a)(4) of the Zoning Ordinance of Volusia County, as amended, requires that each applicant for a Variance submit a written petition as part of the application. The written petition must clearly describe how the Variance request satisfies all of the specific conditions necessary for the granting of the Variance, as listed in the Ordinance.

The following items must be completed in sufficient detail to allow Current Planning to determine if the application complies with the Ordinance (use additional sheets if necessary):

- A. What special condition(s) and circumstance(s) exist which are peculiar to your land, structure, building, or sign and are not applicable to other lands, structures, buildings, or signs in the same zoning classification? Were these special condition(s) and circumstance(s) the result of actions by you?

LOT IS A PLATTED LOT THAT DOES NOT MEET CLASSIFICATION FOR ZONING

REQUIREMENTS. I DID NOT CREATE THIS PROBLEM BY ANY OF MY ACTIONS.

- B. How would literal interpretation of the Zoning Ordinance deprive you of rights commonly enjoyed by other properties in the same zoning classification and be an unnecessary and undue hardship on you?

A 53 X 115 LOT IS COMMON IN THIS AREA. I HAVE ALREADY RECEIVED A PERMIT

FOR CLEARING THE LOT. I HAVE PAID FOR METER ANNEXATION AND HAVE METER

FOR CITY WATER BEING INSTALLED. MY WIFE AND I HAVE CLOSED ON OR LOAN

TO BUILD AND I AM A DISABLED VET BUILDING MY FAMILY HOME WITH 3 KIDS.

- C. Explain how the Variance(s) you are requesting is/are the minimum Variance(s) that will make it possible for you to make reasonable use of your land, building, structure or sign:

TO SEPERATE COMMON OWNERSHIP OVER 16 YEARS AGO WITH OVER TWO

DIFFERENT OWNERS OF LOT.

D. The general intent and purpose of the Zoning Ordinance and the Volusia County Comprehensive Plan Ordinance No. 90-10 is to lessen congestion in the streets; to promote public health, safety, morals, and the general welfare; to properly provide for the use of land and governmental services; and to preserve the character, appearance, and aesthetic qualities of Volusia County by regulating signs.

1. Is your request for Variance(s) consistent with this intent and purpose?

YES

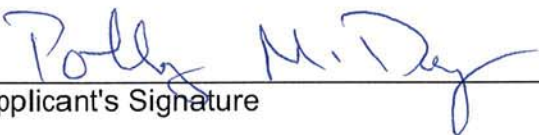
and

2. Explain how your request for Variance(s) will not be injurious to the surrounding area:

NO


Applicant's Signature

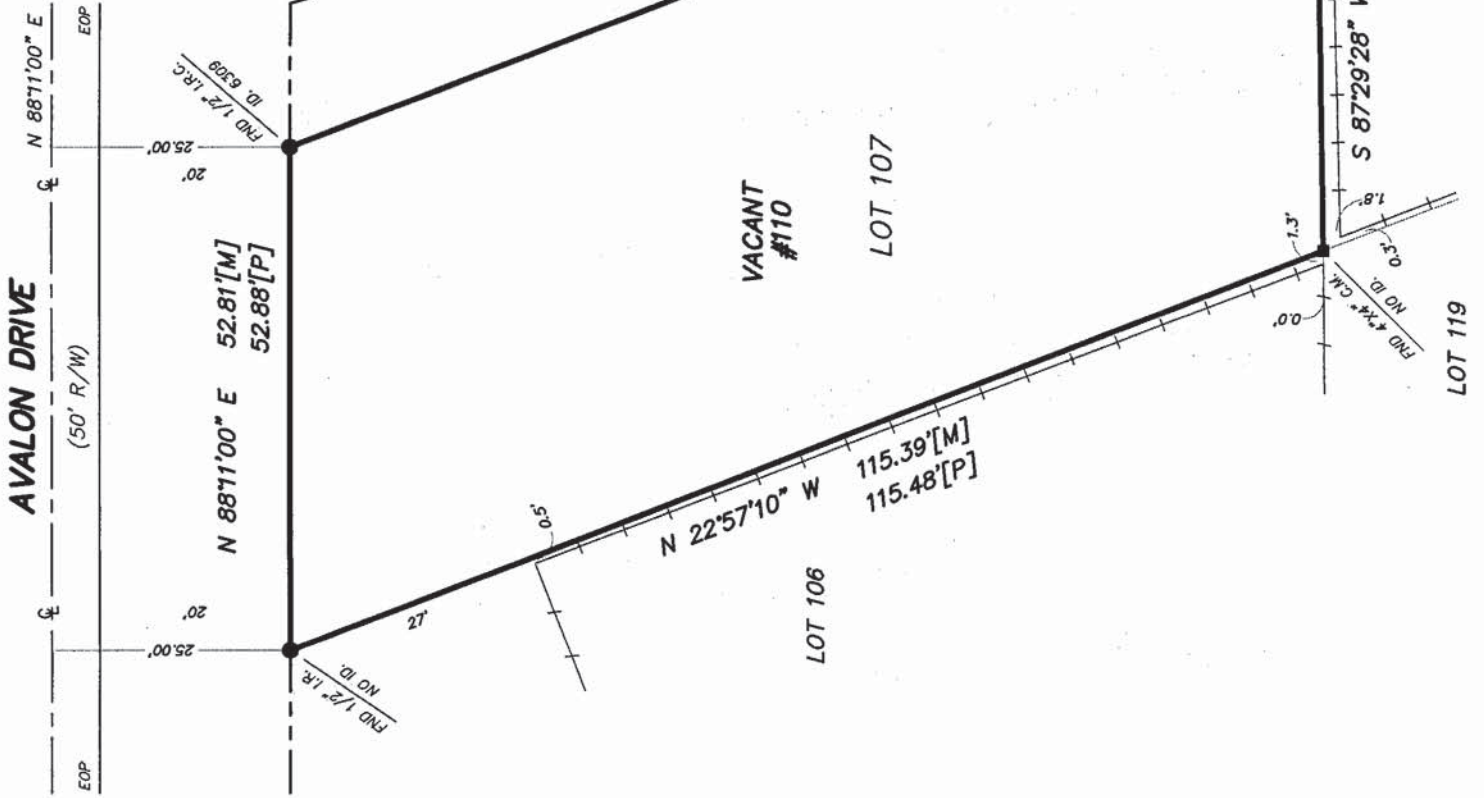
7/19/17
Date


Applicant's Signature

7-19-17
Date

Boundary Survey

SCALE: 1"=20'



LEGAL DESCRIPTION: LOT 107, AVALON-BY-THE-SEA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 11, PAGE 285, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.

110 AVALON DRIVE
ORMOND BEACH, FL.

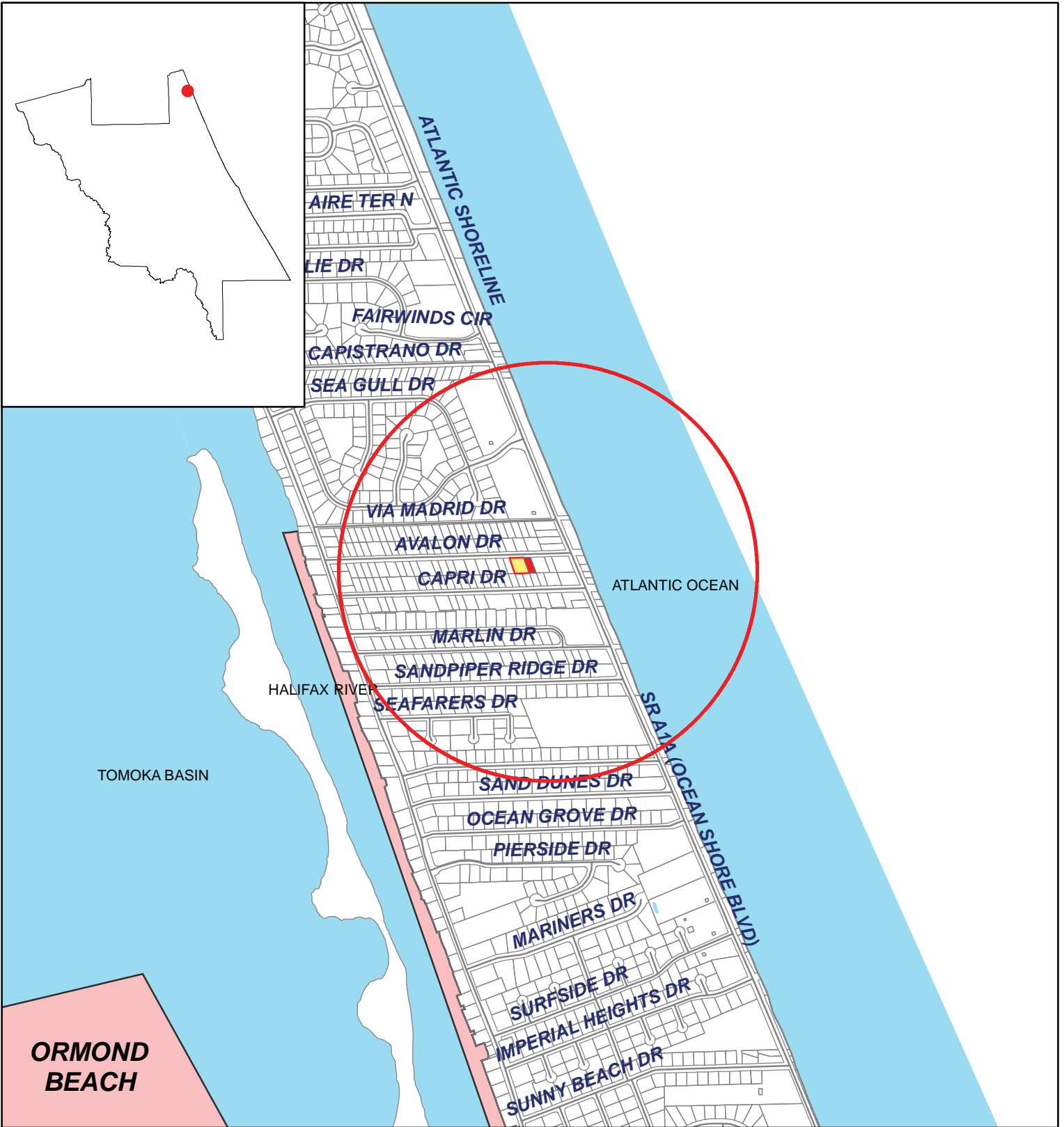
SMITH, STOUT,
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BROCK, P.A.



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DRAWN BY: KZR	CHECKED BY: BRETT
CERTIFIED TO: LAWRENCE L. DAY & POLLY M. DAY SMITH, STOUT, BIGMAN & BROCK, P.A. OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY FIRST FLORIDA CREDIT UNION	
COMMUNITY NO: 125155	FL.R.M. DATE: 02/19/14
PANEL: 0202	SUFFIX: J
FLOOD ZONE: X	
SURVEY NO. 74444	FIELD DATE: 08/03/16



REQUEST AREA LOCATION



1" = 1000'



VARIANCE

CASE NUMBER

V-17-066



AERIAL 2015

1" = 400'



VARIANCE
CASE NUMBER
V-17-066



REQUEST AREA



ADJACENT LOT



ZONING CLASSIFICATION

 RESIDENTIAL	 RESOURCE CORRIDOR
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REQUEST AREA



CONNECTED LOT

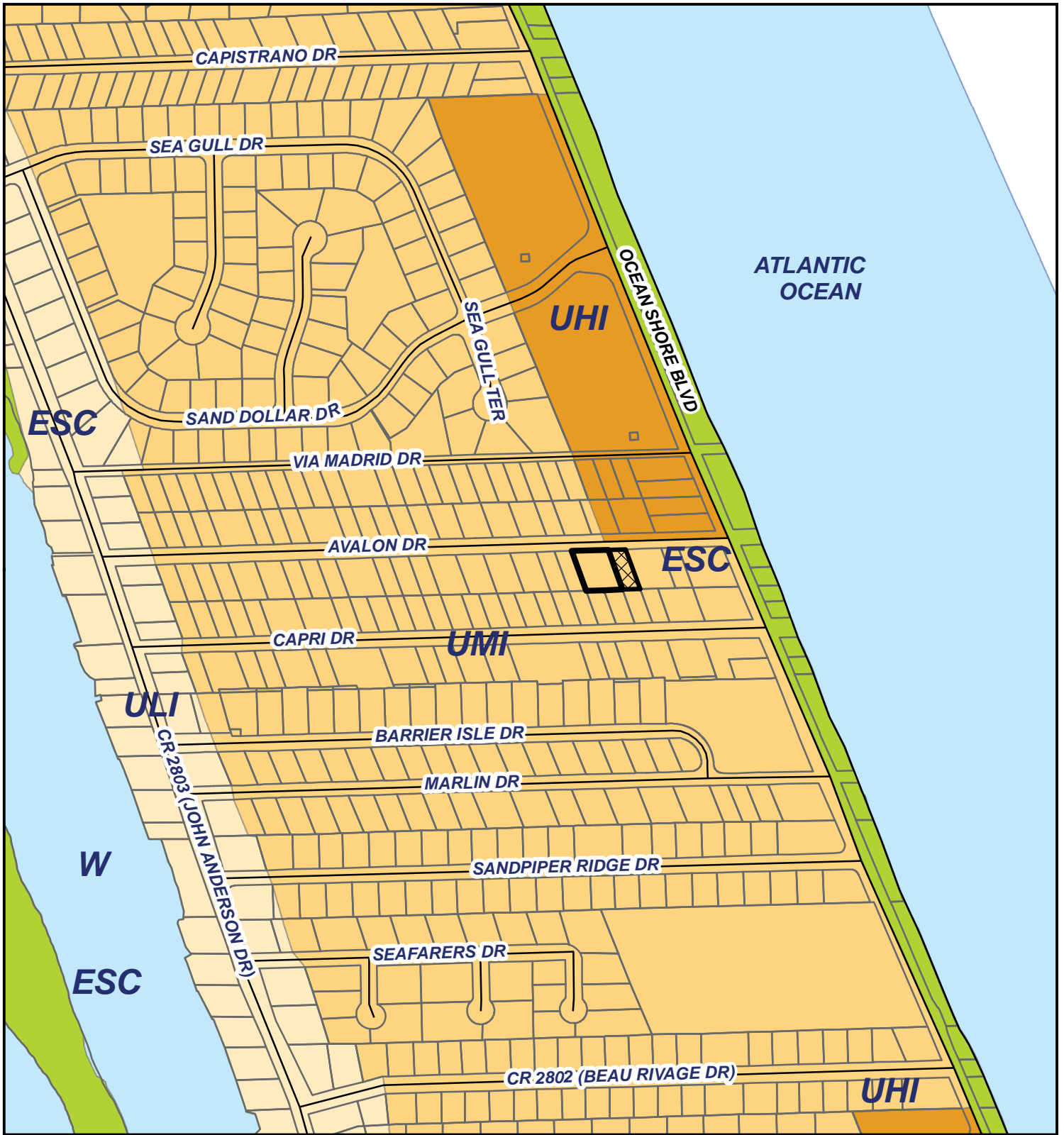
1" = 400'



VARIANCE

CASE NUMBER

V-17-066



FUTURE LAND USE

- URBAN HIGH INTENSITY
- URBAN MEDIUM INTENSITY
- URBAN LOW INTENSITY
- ENVIRONMENTAL SYSTEMS CORRIDOR
- WATER
- REQUEST AREA
- CONNECTED LOT

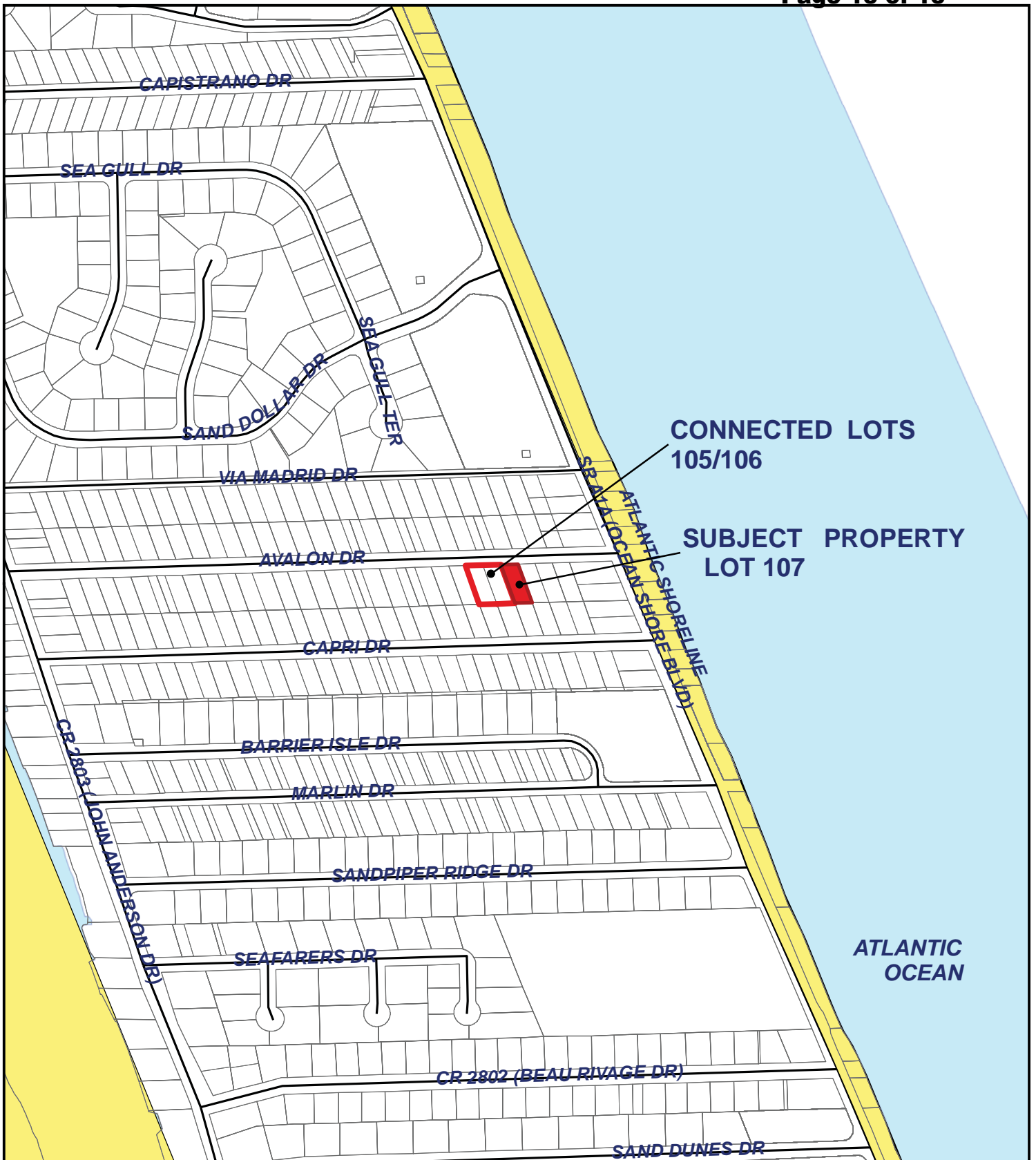
1" = 400'



VARIANCE

CASE NUMBER

V-17-066



CONNECTED LOTS
105/106

SUBJECT PROPERTY
LOT 107

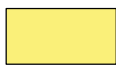
ECO/NRMA

1" = 400'

**VARIANCE
CASE NUMBER**



ECO



NRMA



REQUEST AREA

V-17-066