

### County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING ALAN WEAVER, DIRECTOR

### Planning Commission Staff Report Agenda Item No. 3 July 30, 2015

SUBJECT:

Variance Application No. 3946

Allow a property line adjustment between two 4.89-acre parcels in the R-R (Rural Residential, two-acre minimum parcel size) Zone District resulting in the creation of a 1.07-acre parcel and

an 8.71-acre parcel.

LOCATION:

The project site is located on the east side of Grantland Avenue, between Ashlan Avenue and Shields Avenue, approximately 60 feet east of the nearest city limits of the City of Fresno (3328 N. Grantland Avenue) (Sup. Dist.: 1)

(APNs: 512-141-29, 512-141-30).

Applicant:

Lincoln Grantor Farms, LLC

Owner:

**Anna Hart** 

Representative: Granville Homes

**STAFF CONTACT:** 

Derek Chambers, Planner

(559) 600-4205

Eric VonBerg, Senior Planner

(559) 600-4569

### **RECOMMENDATION:**

- Deny Variance Application No. 3946; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

### IMPACTS ON JOB CREATION:

The Commission's action will not have any substantial effect on job creation.

### **EXHIBITS**:

- 1. Condition of Approval and Project Notes
- 2. Location Map
- 3. Existing Zoning Map
- 4. Existing Land Use Map
- 5. Assessor's Map
- 6. Applicant's Submitted Findings
- 7. Site Plan

### SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Rural Residential	No change
Zoning	R-R (Rural Residential, two- acre minimum parcel size)	No change
Parcel Size	APN 512-141-29: 4.89 acres	Parcel A: 1.07 acres
	APN 512-141-30: 4.89 acres	Parcel B: 8.71 acres
Project Site	APN 512-141-29: 4.89-acre parcel; single-family residence with septic system; two agriculturally-exempt storage buildings	Parcel A: 1.07-acre parcel; single-family residence with septic system; two agriculturally-exempt storage buildings
	APN 512-141-30: 4.89-acre parcel	Parcel B: 8.71-acre parcel
Structural Improvements	APN 512-141-29: Single-family residence with septic system; two agriculturally-exempt storage buildings	Parcel A: Single-family residence with septic system; two agriculturally-exempt storage buildings  Parcel B: None
	APN 512-141-30: None	
Nearest Residence	Approximately 40 feet south of the southern property line of APN 512-141-30	Approximately 40 feet south of the southern property line of proposed Parcel B
Surrounding Development	Agricultural packing house approximately 660 feet north of APN 512-141-29; mixed	No change

Criteria	Existing	Proposed
	residential and agricultural land uses dispersed throughout area	
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	APN 512-141-29: Residential traffic  APN 512-141-30: N/A (no structural improvements)	Parcel A: Residential traffic  Parcel B: N/A (no structural improvements)
Lighting	APN 512-141-29: Residential lighting  APN 512-141-30: N/A (no structural improvements)	Parcel A: Residential lighting  Parcel B: N/A (no structural improvements)
Hours of Operation	N/A	N/A

### EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: No

### **ENVIRONMENTAL DETERMINATION:**

It has been determined pursuant to Section 15061.b.3 of the California Environmental Quality Act (CEQA) Guidelines that the proposed project will not have a significant effect on the environment and is not subject to CEQA.

### **PUBLIC NOTICE:**

Notices were sent to 20 property owners within 600 feet of the subject property, exceeding the 300-foot minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

### PROCEDURAL CONSIDERATIONS:

A Variance Application (VA) may be approved only if four Findings specified in Zoning Ordinance Section 877 are made by the Planning Commission.

Specifically related to a VA, in order to make Findings 1 and 2, a determination must be made that the property is subject to an exceptional or extraordinary physical circumstance that does not apply to other properties in the same Zone District, and a substantial property right held by other property owners of like-zoned parcels in the area must be identified.

The decision of the Planning Commission on a VA is final unless appealed to the Board of Supervisors within 15 days of the Commission's action.

### BACKGROUND INFORMATION:

This proposal entails a request to allow a 4.89-acre parcel identified as Assessor's Parcel Number (APN) 512-141-29 to be reduced by 3.82 acres resulting in the creation of a 1.07-acre parcel in the R-R Zone District which requires a two-acre minimum parcel size for the creation of new lots. The 3.82 acres to be removed from the parcel identified as APN 512-141-29 will be added to a southerly adjacent 4.89-acre parcel identified as APN 512-141-30 by means of Property Line Adjustment (PLA) Application No. 12-23, which is currently in process.

Anna Hart is the property owner of both the 4.89-acre parcel identified as APN 512-141-29 and the 4.89-acre parcel identified as APN 512-141-30. According to the Variance Findings provided by the Applicant, Lincoln Grantor Farms, LLC has an Option Agreement with Anna Hart to purchase the subject parcels, which is contingent upon the creation of the proposed 1.07-acre parcel. Creation of this 1.07-acre parcel will allow Ms. Hart to convey the 8.71-acre balance of the existing parcels to Lincoln Grantor Farms, LLC while retaining her residence on the proposed 1.07-acre parcel.

The two existing 4.89-acre parcels were created on June 27, 1975, with the recordation of Parcel Map No. 2568. The Zone District in effect at that time was A-2 (General Agriculture), which required a minimum parcel size of 100,000 square feet (2.29 acres) for the creation of new lots. Subsequently, on March 8, 1977, the subject parcels and surrounding areas to the north, south and east were rezoned from the A-2 Zone District to the R-R (Rural Residential, two-acre minimum parcel size) Zone District, which is the same Zone District currently in effect.

There have been two other Variance applications requesting reduced parcel size requirements in the R-R Zone District filed within a mile of the subject property.

Variance (VA) Application No. 3275 was filed to allow creation of two 1.14-acre parcels in an area zoned R-R and designated Rural Residential in the General Plan. In that case, staff recommended denial of the Variance application due to an inability to make any of the four Variance Findings, and the Planning Commission denied VA Application No. 3275 on August 9, 1990. However, an appeal of the Planning Commission's denial was filed with the Board of Supervisors, which approved VA Application No. 3275 on September 18, 1990.

VA Application No. 3831 was filed to allow the creation of a 1.0-acre parcel and a 1.1-acre parcel in an area zoned R-R and designated Rural Residential in the General Plan. In that case, staff recommended denial of the Variance application due to an inability to make Variance Findings 1, 2 and 4. However, the Planning Commission approved VA Application No. 3831 on March 23, 2006.

Although there is a history of Variance requests within proximity of the subject property, each Variance request is considered on its own merit, based on unique site conditions and circumstances.

### **DISCUSSION:**

Findings 1 and 2:

There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification; and

Such Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	Parcel A (1.07 acres): Front (western property line): 77 feet Side (northern property line): 20 feet Side (southern property line): 90 feet Rear (eastern property line): 70 feet	Parcel A (1.07 acres): Yes  Parcel B (8.71 acres): N/A (no structural improvements)
		Parcel B (8.71 acres): No structural improvements	
Parking	One parking space for each residence	Parcel A (1.07 acres): Existing attached garage  Parcel B (8.71 acres): N/A (no structural improvements)	Parcel A (1.07 acres): Yes  Parcel B (8.71 acres): N/A (no structural improvements)
Lot Coverage	No requirement	No requirement	N/A
Separation Between Buildings	Six feet minimum (75 feet minimum between human habitations and structures utilized to house animals)	Parcel A (1.07 acres): 20 feet  Parcel B (8.71 acres): N/A (no structural improvements)	Yes
Wall Requirements	No requirement	No requirement	N/A
Septic Replacement Area	100 percent	No change	Yes
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	Yes

### Reviewing Agencies/Department Comments Regarding Site Adequacy:

Zoning Section of the Fresno County Department of Public Works and Planning: The R-R Zone District requires a minimum parcel size of two acres. Therefore, a Variance is required to allow exceptions to the Zoning Ordinance to create smaller parcels than allowed.

### Analysis:

In support of Finding 1, the Applicant states that Lincoln Grantor Farms, LLC established an Option Agreement with Anna Hart in 2005 to purchase the subject parcels, which is contingent upon the creation of the proposed 1.07-acre parcel. Creation of this 1.07-acre parcel will allow Ms. Hart to convey the 8.71-acre balance of the existing parcels to Lincoln Grantor Farms, LLC while retaining her residence on the proposed 1.07-acre parcel. Additionally, Lincoln Grantor Farms, LLC intends to agriculturally cultivate the 8.71 acres of land until the economy allows development of said property to become feasible.

In support of Finding 2, the Applicant states that Ms. Hart, an elderly woman living alone, wants to keep her existing residence without having to keep more land than she can maintain. Additionally, Lincoln Grantor Farms has already planted crops on the aforementioned 8.71 acres of land.

With regard to Finding 1, the Option Agreement made between Anna Hart and Lincoln Grantor Farms, LLC for Ms. Hart to have a 1.07-acre homesite is an issue of interpersonal circumstance and is not a physical characteristic of the subject property.

With regard to Finding 2, denial of this Variance request would not deprive the Applicant of any right enjoyed by other property owners in the R-R Zone District, since all property owners in said District are subject to the same Development Standards.

### Noteworthy Recommended Conditions of Approval:

None.

### Conclusion:

Findings 1 and 2 cannot be made.

Finding 3: The granting of a Variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is

		Surrounding Pa	rcels	
	Size:	Use:	Zoning:	Nearest Residence:
North:	19.55 acres	Field crops	R-R	None
South:	4.88 acres	Single-family residence	R-R	Approximately 40 feet to the south
East:	3.33 acres	Vacant	R-R	None
	2.83 acres	Single-family residence	R-R	Approximately 1,170 feet to the east
	3.84 acres	Single-family residence	R-R	Approximately 1,205 feet to the east

		Surround	ding Parcels	
West:	30.05 acres	Field crops	City of Fresno	None

### **Reviewing Agencies/Department Comments:**

Design Division of the Fresno County Department of Public Works and Planning: No concerns with the proposal.

Fresno County Department of Public Health, Environmental Health Division: Building Permit records indicate that the septic system serving the existing residence was installed in 1970. It is recommended that the property owner considers having the septic tank pumped and leach fields evaluated by an appropriately-licensed contractor if they have not been serviced and/or maintained within the last five years. Such inspection may indicate possible repairs or additions, or require the proper destruction of the system. This recommendation has been included as a Project Note. At such time the Applicant or future property owner decides to construct a water well, the water well contractor selected will be required to apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Public Health, Environmental Health Division. This requirement has been included as a Project Note.

North Central Fire Protection District: No concerns with the proposal.

Fresno Irrigation District (FID): FID does not own, operate or maintain any facilities located on the subject property.

Fresno Metropolitan Flood Control District (FMFCD): No concerns with the proposal.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: No concerns with the proposal.

### Analysis:

In support of Finding 3, the Applicant states that this Variance will allow Ms. Hart to remain in her home on a parcel of land that is small enough for her to maintain. Additionally, this Variance will also keep the 8.71 acres of land agriculturally productive, as Lincoln Grantor Farms, LLC has the ability to cultivate said land whereas Ms. Hart does not.

If approved, the granting of this variance will result in the creation of a 1.07-acre parcel with an existing residence located thereon, and an 8.71-acre parcel devoid of structural improvements on which a residence could be established as a matter of right. Such a use is complimentary to and compatible with existing residential land uses in the vicinity of the proposal. Considering the existing nature of the residence located on the proposed 1.07-acre parcel and the surrounding residential land uses, staff believes that there will be no adverse aesthetic impact and no adverse effects on surrounding properties if the Variance is granted.

### Noteworthy Recommended Conditions of Approval:

None.

### Conclusion:

Finding 3 can be made.

Finding 4:

The granting of such a Variance will not be contrary to the objectives of the General Plan.

Relevant Policies:	Consistency/Considerations:
General Plan Policy LU-E.3: County shall maintain two acres as the minimum permitted lot size, exclusive of all road and canal right-of-ways, recreation easements, permanent water bodies, and public or quasi-public common use areas.	As this Variance request proposes to create a parcel smaller than two acres in an area designated Rural Residential and zoned R-R (Rural Residential, two-acre minimum parcel size), staff believes this proposal is inconsistent with the General Plan.
General Plan Policy LU-G.1: County acknowledges that the cities have primary responsibility for planning within their LAFCO-adopted Spheres of Influence and are responsible for urban development and the provision of urban services within their Spheres of Influence.	The subject property is located approximately 60 feet east of the nearest city limits of the City of Fresno, and is within the sphere-of-influence of the City. This proposal was referred to the City of Fresno for review, which expressed no concerns with the proposal.  Staff believes the proposal is consistent with this Policy.
General Plan Policy PF-C.17: County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation. The evaluation shall include a determination of water sustainability and a determination that the use will not have a detrimental impact upon other water users in the County.	This proposal was referred to the Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning for review, which expressed no concerns with the proposal. Further, the subject property is not located in a water-short area.  Staff believes the proposal is consistent with this Policy.

### **Reviewing Agencies/Department Comments:**

Policy Planning Section of the Fresno County Department of Public Works and Planning: The Agriculture and Land Use Element of the General Plan maintains two acres as the minimum parcel size in areas designated Rural Residential. General Plan Policy LU-E.3 states that the County shall maintain two acres as the minimum permitted lot size, exclusive of all road and canal right-of-ways, recreation easements, permanent water bodies, and public or quasi-public common use areas.

### Analysis:

In support of Finding 4, the Applicant states that the subject property is located in an area designated for medium high density residential development in the City of Fresno General Plan. Additionally, Lincoln Grantor Farms, LLC has already begun agricultural cultivation of the 8.71-acres of land associated with this proposal.

With regard to Finding 4, staff acknowledges that the subject property is located within the City of Fresno's Sphere-of-Influence; however, said property is currently designated Rural Residential in the County's General Plan and is zoned R-R (Rural Residential, two-acre minimum parcel size). As this Variance request entails a proposal to create a 1.07-acre parcel, Policy LU-E.3 is applicable, and staff believes this proposal is inconsistent with said Policy.

<b>Noteworthy Recommended Cor</b>	naitions of	Approvai:
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### Conclusion:

Finding 4 cannot be made.

### **PUBLIC COMMENT:**

None.

### **CONCLUSION:**

Based on the factors cited in the analysis, staff is unable to make Findings 1, 2 and 4. Therefore, staff recommends denial of Variance Application No. 3946.

### PLANNING COMMISSION MOTIONS:

### Recommended Motion (denial action)

- Move to determine that the required Findings cannot be made and move to deny Variance Application No. 3946; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

### <u>Alternative Motion</u> (approval action)

- Move to determine that the required Findings can be made (state basis for making the Findings) and move to approve Variance Application No. 3946, subject to the Condition and Notes listed below; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

### Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

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## Variance Application (VA) No.: 3946 (Condition of Approval and Project Notes)

### Condition of Approval

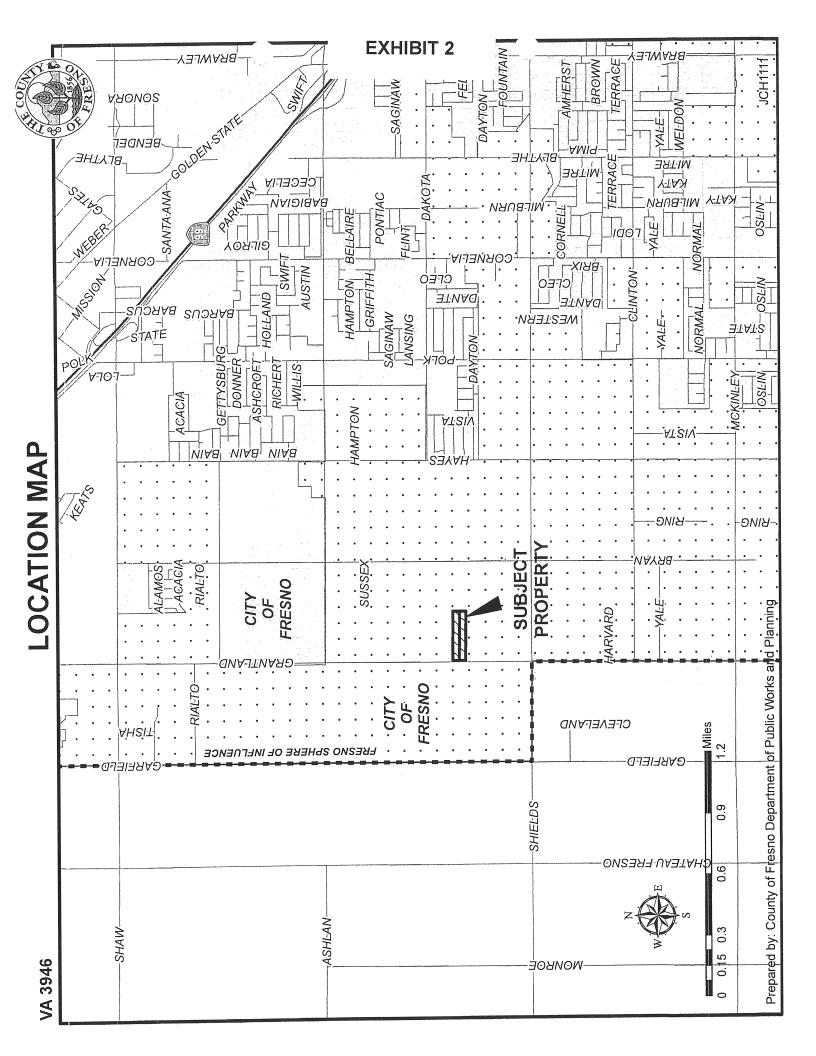
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Conditions of Approval reference recommended Conditions for the project.

# The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant. Notes

**EXHIBIT 1** 

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VA 3946



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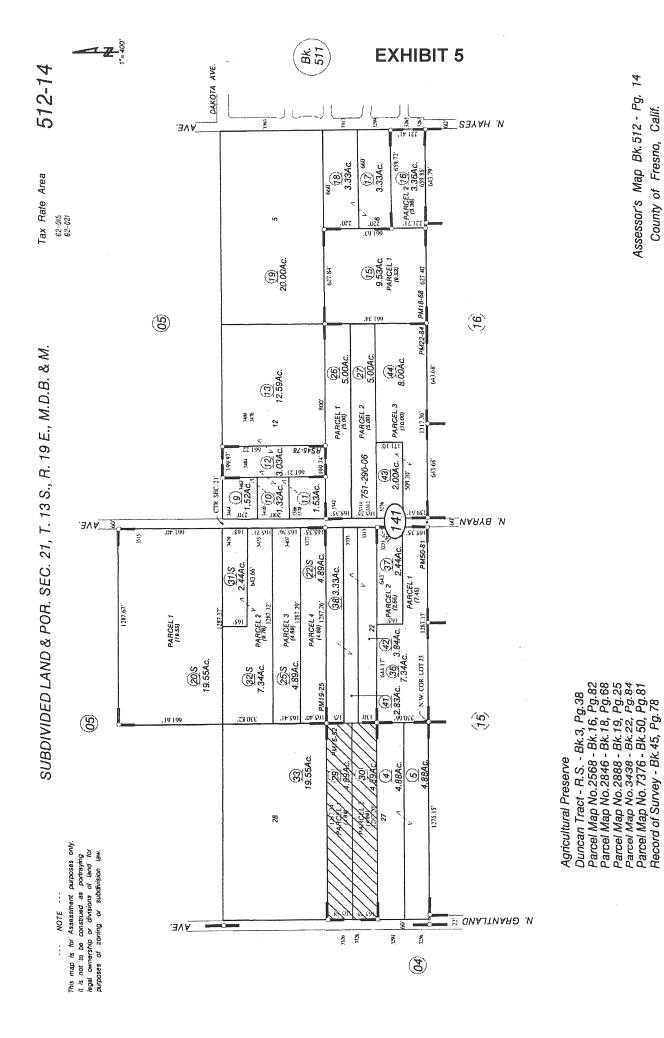
**EXHIBIT 4** 

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Department of Public Works and Planning Development Sevices Division

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Map Prepared by: JHernandez		



Assessor's Map Bk.512 - Pg. 14 County of Fresno, Calif.

NOTE - Assessor's Block Numbers Shown in Ellipses. Assessor's Parcel Numbers Shown in Circles.

O2-08-5009 1DD

### **EXHIBIT 6**

County of Fresno
Department of Public Works and Planning
Attn: Derek Chambers

### **Statement of Variance Findings**

Site Address: 3328 N. Grantland Ave. Fresno, CA 93723

Lincoln Grantor Farms, LLC 1396 W. Herndon, Suite 101 Fresno, CA 93711

May 22, 2015

### Lincoln Grantor Farms, LLC

1396 W. Herndon, Suite 101 Fresno, CA 93711

May 22, 2015

Fresno County
Department of Public Works
Attn: Derek Chambers
2220 Tulare St, Suites A & B
Fresno, CA 93721

RE: Variance Application for 3328 N. Grantland, 512-141-29, 30

Mr. Chambers:

The following expresses our findings necessary for the granting of a variance for the property located at 3328 N. Grantland, Fresno, CA 93723, APNs 512-141-29 and 512-141-30. We greatly hope that the County of Fresno is in support of this variance as it is a contingency upon both the resident of the home and the farmer of the land to close on their agreement set forth years ago.

Sincerely,

Christine Lingenfelter

### Lincoln Grantor Farms, LLC

1396 W. Herndon, Suite 101 Fresno, CA 93711

1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having identical zoning classification.

Lincoln Grantor Farms, LLC has been under an Option Agreement with owners, Anna & Armond Hart, of the 9.78 acre property located at 3328 N. Grantland since October of 2005. Our agreement outlines that in order for the optionee (Lincoln Grantor Farms, LLC) to close on this property, the optionee must obtain a lot line adjustment creating a legal parcel for the land that they will retain and eventually own at the close of escrow. The land the optionor outlined to retain equals 1.07 acres, while the optionee is set forth in the agreement to retain 8.71 acres.

In 2005, when Lincoln Grantor Farms, LLC entered into this option agreement with Anna and Armond Hart, the intent was to develop the land. Since the recession, in order to keep this option in place, the intent transitioned to farming the land until it is feasible to develop.

2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having identical zoning classification.

In this case, Anna Hart, an elderly woman, wants to continue to live in the house she has lived in for over 40 years, without keeping any more land than she can maintain nor needs. Mrs. Hart is, unfortunately, living on the property alone as she recently had to put her husband in the Veteran's Hospital. The optionees purchasing this land have already planted on the 8.71 acres that they hope to own when a variance and property line adjustment have been granted.

3. The granting of a variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which property is located.

Granting this variance will not cause harm to the public welfare in any way nor will it harm the improvement of the area. This variance simply allows an owner to retain the amount of land she wants to care for that surrounds her home of 40+ years. Mrs. Hart has stated that she can no longer afford to care for any more than the 1.07 acre parcel we are carving out for her to retain. This variance will also help to allow a separate owner to farm and maintain 8+ acres of land that adds value to the area.

### Lincoln Grantor Farms, LLC

1396 W. Herndon, Suite 101 Fresno, CA 93711

### 4. The granting of such variance will not be contrary to the objectives of the General Plan.

The General Plan calls for medium high density (10.38-18.15 D.U./acre) at this location. The 8.71 acres of formerly bare land, as mentioned previously, is currently being farmed and has already been planted. The 1.07 acres of land that Mrs. Hart's home sits on, has not been changed. Although we are not wanting this variance granted for the immediate purpose of subdividing the land to create 150+ lots to construct homes on, we feel that our intent for this land does not affect the future of these parcels.

**EXHIBIT 7** TEL (659) 244-3123 FXX (568) 244-3126 YAMABE & HORN ENGINE, INC. ALL BEARNOS, SISTANCES & ASEAS PER OR CALCILATED FROM SECOND DATA PER PARCEL MAP NO. 2568 RECAROED IN BOOK 16 OF PARCEL MAPS AT PACE B2, RRESNO COUNTY RECORDS. ONLY THE STRUCTURES IN THE IMMEDIATE AFFECTED ANTA OF THE PROPOSED ADJISTED PARCEL UNES WERE LOCATED UFFICIAL RECORDS FRESING COUNTY PROPOSED ADJUSTED PARCEL LINE UNITS OF SUBJECT PARCELS FRESHO CCUNTY RECORDS EXISTING PROPERTY UNE EDGE OF PAVEMENT PROPERTY LINE ADJUSTMENT NO. 13-2985 N. BURE. AVE. SUITE 101 FRESHO, CA \$5727 EASEVENT UNE SECTION LINE **EULDING UNE** SUBJECT PARCELS PARCEL 1 AND 2 OF PARCEL MAP NO. 2568
BOOK 16 OF PARCEL MAPS AT PAGE 82, F.C.R.
FOR LINGCOLN GRANTER FRAMS, LLC
1396 W. HERSOON AVENUE. #106
FRESNO, CA 93711 1 D.R.F.C. VICINITY MAP. F.C. 9 W. ASHLAN AVE LEGEND: Description of the Control of the Control nesketyep Jun 03 2013 1006.22 1006.22 PROPOSES ADJUSTED PARCEL B 6.71 ACRES FIXSTING PARCEL LINE TO BE ADJUSTED N69'59'28'E 1317.24' 1287.24' WB959197E 1317.20 1287.29°. J. 12' ULTIVATE RIGHT-OF-WAY WEST SHIELDS AVENUE. -WCST 1/4 DORNER SECTION 21, T.135,R.19E. WEST DAKOTA AVENUE NORTHWEST CORNER SECTION 28, 1.135, R.19E. NORTH GRANTLAND AYENUE