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State law requires farm impact studies

Tuesday's Bulletin had an article entitled: "Redundant farm conversion studies adding to the cost of housing projects."

The premise of the article is that the City requires developers to fund unnecessary farmland conversion studies when the impacts have already been identified and addressed with a litigated settlement that resulted in developers paying an agricultural mitigation fee. The article also references the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) fee. The SJMSCP fee is not an agricultural mitigation fee; it is for the preservation of wildlife habitat, which in some cases includes land areas that are farmed.

While it is true that the fees exist and are used as partial mitigation for the loss of agricultural land and preservation of habitat, the article fails to mention that the fees are merely payment for impacts and have nothing to do with the State's requirement to review and analyze the project's specific impacts.

The California Environmental Quality Act (CEQA) requires the City to identify and analyze all environmental impacts of a development project. Only a small portion of the environmental impact report (EIR) is dedicated to analysis of the loss of agricultural land and wildlife habitat. Relying on payment of an impact fee without identifying the unique impacts of the development would be not satisfy the requirements of CEQA.

Frankly, the article overstates the time and cost of the agricultural study. These studies are only a small portion of the overall EIR.

The cost of preparing an environmental document that meets the State's requirements, identifies the impacts, and allows mitigation of these impacts (not completely, but to the greatest extent feasible (in this case payment of a fee)), is far less than the true cost of fully mitigating the impacts. The fact that these studies can identify payment of an agricultural mitigation fee of \$2,213.17 per acre is far less than the cost of buying the development rights of an equal amount of agricultural land. The same goes for development rights of wildlife habitat.

Overall, the EIR gives the city and the Developer the security that the development has met the State's requirements and protects the city and developer from lawsuits brought by farmland and wildlife habitat activists. The fee itself does nothing to protect the developer - the CEQA analysis is of paramount importance.

As noted above, the mitigation fee is often not enough to offset the impacts identified in the EIR. With an EIR, the city can approve projects that do not fully mitigate impacts by adopting "statements of overriding considerations". In other words, approving projects that the City finds to be of greater value to the community than fully mitigating the impacts identified in the EIR. EIR's are often seen as a negative, but in reality, they are

the tool that allow us to build projects whose negative impacts are offset by a positive benefit to the community. Most development in the Central Valley would be eliminated if not for an EIR's ability to override the negative consequences of a project.

The bottom line is that the agricultural and habitat studies are a small portion of an overall environmental impact report (EIR) that the city is required by State law to prepare for a project. The requirement to analyze a project and its impact are not optional, and the impact fees are the mitigation not the study.

The city participates in two separate programs in which fees are required. The first program is an agricultural land mitigation program and the second is a habitat and open space mitigation program.

The Ag mitigation fee is currently set at \$2,213.17. This fee is the direct result of litigation by environmental groups. Per the agreement Manteca passes this fee to the Central Valley Farmland Trust, <http://www.valleyfarmland.org/> .

The Habitat fee (San Joaquin County Multi-Species Habitat Conservation and Open Space Plan) was not the result of litigation, but rather a grass root program designed to protect the 90 or so state and federally protected species and their habitat within San Joaquin County.

All projects in Manteca are subject to this plan, not only projects greater than 350 acres. All participating cities in the county were mapped in 2001 and all properties were categorized either urban, ag, multi-use/open space, grassland, or vernal pool. The urban category has no fee.

This program and the fees associated with it are voluntary. If a developer chooses to "opt-out" of the plan, they would need to deal with the State fish and game and federal agencies regarding protection of the 90+ species and habitat in this county. The program is designed to streamline the biological requirements for projects that choose to participate.

<http://www.mantecabulletin.com/news/article/10678/>