

SUBJECT: Comments on the Protect Ontario by Building Faster and Smarter Act, 2025 (Bill 17)

PREPARED BY: Duran Wedderburn, RPP, MCIP, Manager, Policy ext. 2109
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RECOMMENDATION:

- 1) That the report dated June 10, 2025, titled " Comments on the Protect Ontario by Building Faster and Smarter Act (Bill 17)" be received;
- 2) That this report be forwarded to the Minister of Municipal Affairs and Housing, Minister of Infrastructure, and Minister of Transportation as the City of Markham's comments on Bill 17;

Amendment to the Building Transit Faster Act, 2020

- 3) That the Province establish a formal process for consultation and coordination with municipalities in the development of provincial transit projects and the management of construction activities including traffic management plans;
- 4) That the Province work collaboratively with the City to monitor local impacts, provide regular project updates, and ensure timely notification to affected stakeholders and the public;

Amendments to the Planning Act

- 5) That the Province require formal municipal consultation to demonstrate that local transportation policies and plans are considered and aligned before issuing MZOs or imposing conditions that may adversely impact transportation systems;
- 6) That the Province clarify and provide further guidance on how MZO conditions will be cleared, to whose satisfaction, and provide a specific list of the items that can be conditioned;
- 7) That the Province ensure school sites are not located in areas that are not appropriate for sensitive land uses;

Proposed Regulations – Complete Applications

- 8) That Council not support regulations that would limit the scope, type or number of studies that may be required as part of a complete application and instead provide guidance to municipalities to facilitate consistency across the Province;
- 9) That if the Province proceeds, at a minimum sun/shadow and wind impact studies should be required as a part of Zoning Bylaw Amendment and Site Plan Control Applications;

- 10) That the Province partner with Ontario municipalities and practitioners on common practices and criteria for urban design studies to ensure consistency across all jurisdictions;
- 11) That the Province provide more details on the process and requirements for certifying professionals for which municipalities would be required to accept studies;

Proposed Regulation As-of-right Variations from Setback Requirements

- 12) That Council not support changes to the Planning Act to enable the Minister of Municipal Affairs and Housing to permit variations from the zoning by-law within a prescribed percentage;
- 13) That the Province limit the applicability of the proposed legislation to existing development with reduced zoning setbacks and legal non-conforming uses;

Amendments to Transit Oriented Communities Act

- 14) That Council is generally supportive of the proposed changes where the implementation of Transit Oriented Communities aligns with the local municipal visions or plans are developed in consultation with the municipality to ensure local priorities are protected;

Building Code - Eliminate Secondary Approvals for Innovative Construction Materials

- 15) That Council support all proposed changes to streamline Ministers' rulings process for construction products;
- 16) That Council not support Building Code research efforts geared towards single unit four storey townhouses as these units are not affordable and only generate one dwelling unit. The Province should dedicate Building Code research resources to more affordable housing solutions;

Amendments to Ministry of Infrastructure Act and Metrolinx Act

- 17) That Council support all opportunities for municipal data tracking across the Province, where data collection is automated through open data;

Proposed Changes to the Development Charges Act

- 18) That Council not support the proposed change to exempt long term care homes; if the Province proceeds to institute this change, the City will be amenable if the exemption applies only to non-profit developments;
- 19) That Council not support the payment of development charges at occupancy; if the Province proceeds to institute this change, the City would be amenable if interest is levied to the date of occupancy and security can be obtained for the outstanding amounts;

- 20) That Council support the changes to the application of the development charge rate freeze, where collection is based on the lower of the frozen development charge amount plus interest or, the amount calculated using the prevailing rate;
- 21) That Council support the streamlined process for selected development charge by-law amendments, which eliminates the requirement to prepare a Development Charges Background Study if the amendment is to reduce the development charge rates;

Proposed Development Charge changes through Regulation

- 22) That Council request the City be invited to participate in the discussions on the proposed regulatory changes, inclusive of those related to the determination of eligible capital costs which may focus on the inclusion/exclusion of land, and the methodology for determining benefit to existing;
- 23) That Council support the need for more development and streamlined processes, but not support any changes to the development charge regime that will move growth related costs away from developers and onto existing residents and businesses in any significant way;

Other Proposed Cost Recovery Changes

- 24) That Council request the City be invited to participate in discussions on the utilization of a proposed utility model to construct water and wastewater services;
- 25) That staff be authorized and directed to do all the things necessary to give effect to this resolution.

PURPOSE:

This report provides an overview and proposed comments to the Province on the Protect Ontario by Building Faster and Smarter Act (Bill 17).

EXECUTIVE SUMMARY

On May 12, 2025 the Province released Bill 17 the Protect Ontario by Building Faster and Smarter Act (Bill 17). The Province is undertaking consultation on the omni-bus legislation which impacts several Acts including the Planning Act, Development Charges Act, and Transit Oriented Communities Act. The proposed changes are included in (9) posts on the Environmental Registry of Ontario (ERO) and the Ontario Regulation Registry (ORR) with commenting deadlines of June 11, 12, and 26th.

On June 5, 2025, Bill 17 received Royal Assent. It is unclear as to whether the comments invited by the Province were considered as the ERO and ORR commenting period has not concluded. Despite the status of the legislation, staff are of the opinion that the Council should still take a formal position on these important matters and the City's comments may inform future implementation processes such as regulations, consultation, or guidance documents that may be advanced by the Province.

Overall, staff have concerns about provisions in the legislation that will override the decision-making authority of the municipality that have been established through official Plans, Secondary Plans, and Zoning By-laws and the ability to request studies to support an informed decision-making process. Further, proposed changes that will shift the cost of development from developers and new growth in the municipality to the existing tax base is of significant concern.

BACKGROUND:

On May 12, 2025, the Province released the Protect Ontario by Building Faster and Smarter Act (Bill 17).

According to the Province, the intent of the Bill is to help speed up the construction of new homes and infrastructure by streamlining development processes and reducing costs in close partnership with municipalities. In addition to Bill 17, the Province is increasing investment in housing enabling legislation by adding \$400 million in immediate funding to the Housing Enabling Water System Fund (HEWSF) and Municipal Housing Infrastructure Fund (MHIP) for a total of nearly \$2.3 Billion over four years across both programs.

The Province is undertaking consultation on Bill 17 and other measures and has posted 5 items on the Environmental Registry of Ontario (ERO) and 4 items on the Ontario Regulatory Registry (ORR) with commenting deadlines of June 11, June 12, and June 26, respectively. The Bill proposed changes to several Acts, including:

- The Planning Act, R.S.O 1990;
- The Development Charges Act, 1997;
- The Building Code Act, 1992
- The Building Transit Faster Act, 2020
- Transit Oriented Communities Act, 2020
- Ministry of Infrastructure Act, 2020
- Metrolinx Act, 2026;
- City of Toronto Act, 2006

For an overview of the proposed changes, the [Protect Ontario by Building Faster and Smarter Act, 2025 – Technical Briefing](#) may be reviewed by way of this link.

It should be noted that not all of the proposals in the Technical Briefing have been released for review and comment. It is anticipated that additional consultation will be undertaken in the Fall.

On June 5, 2025, Bill 17, Protect Ontario by Building Faster and Smarter Act, 2025 received Royal Assent. The Bill was approved as proposed without any amendments. Despite the status of the Bill, staff are of the opinion that the comments prepared establish a position on these important matters and further, the comments may be used to inform future implementation matters, such as regulations, consultation, or guidelines.

OPTIONS/ DISCUSSION:

The discussion on the proposed changes introduced through Bill 17 is organized based on the impact to specific acts or proposals. Detailed staff comments on the proposed changes are provided in Appendix A.

Bill 17 – Technical Briefing and Related Initiatives

The Technical Briefing outlines measures being considered by the government that reflect a future state. Not all proposals or concepts are available for formal review and consultation and some items have been issued as final decisions.

Planning Items for Consideration

- Exemption on a case-by-case basis from the requirements that a decision under the Planning Act be consistent with provincial policy statements
- Simplified, standardized and inclusive land use designations with more permitted uses
- Targeted outreach to municipalities where additional population growth is projected to surpass current official plan estimates
- (Final Decision) Implementation of new Inclusionary Zoning requirements in Ontario Regulation 232/18 under the Planning Act to establish a maximum 25-year period for inclusionary zoning units and a 5% cap on the set aside rate.

Transportation Items for Consideration

- Accelerating transit and provincial infrastructure development
- Consult with municipalities and stakeholders on a framework that will standardize road building specifications and design across the Province by Fall 2025
- Review MTOs corridor management permitting process, modernize the approvals process and accelerate the review and issuance of highway corridor management permits by end of July 2025

Building Code

- Clarify that municipalities do not have the authority to require their own unique standards beyond the Building Code
- Consulting on more flexible design/construction options for single-unit four storey townhouses

Proposed changes to the Building Transit Faster Act

Proposed changes in legislation would expand the definition and powers associated with priority transit projects to provincial transit projects. The expanded definition would now include any transit project that Metrolinx has authority over.

The proposal would result in Metrolinx having the ability to override City authority on municipal road permits and right-of-way use for provincial transit projects. This could disrupt local traffic, limit the City's input on safety and detour plans, and impact ongoing municipal capital projects.

Staff recommend that the Province establish a formal process for consultation and coordination with municipalities in the development of any traffic management plan to help minimize local traffic impacts from the priority transit project construction.

It is further recommended that Metrolinx work collaboratively with the City to monitor local impacts, provide regular project updates, and ensure timely notification to affected stakeholders and the public.

Metrolinx should also be responsible in responding to public inquiries and complaints, and to proactively address any transportation-related issues that may arise during construction activities

Proposed changes to the Planning Act

The Province is seeking feedback on potential legislative and regulatory changes to the Planning Act and City of Toronto Act, 2006, including proposed changes to Minister's Zoning Orders and planning approvals for schools.

The purpose of these changes is to help make it easier and faster to build new homes and infrastructure like transit, roads, and water and wastewater systems, by increasing certainty throughout the development approvals process, streamline processes further to help reduce barriers, and reduce development costs.

Staff are generally supportive of removing restrictions from the establishment of school sites to ensure schools can be built faster to support community needs. However, appropriate measures need to be in place to ensure sensitive uses such as schools are not located in areas with conflicting uses that could be a risk to public health and safety such as environmentally sensitive areas or adjacent to heavy industries.

Staff are concerned that expanding Minister's authority through MZO's may bypass or override municipal Official Plans, Transportation Master Plans, and related policies, reducing opportunities for municipal review and integration of municipal policies and objectives that support a vision established by Council.

Staff recommend that the Province require formal municipal consultation and demonstrate that municipal official plans and local transportation policies and plans are considered and aligned before issuing MZO's or imposing conditions that may adversely impact the land use vision for an area or the transportation system.

Staff recommend the Province provide clarification on determining how conditions are cleared, to whose satisfaction and what items on the list can and cannot be conditioned.

Proposed regulations – Complete Applications

Bill 17 proposes to amend the Planning Act and the City of Toronto Act, 2006 to limit complete application requirements to what is currently identified in municipal official plans, except where the Ministry of Municipal Affairs and Housing approves the changes.

The proposed amendment would also result in the Minister of Municipal Affairs and Housing further regulating the reports or studies required as part of a complete application by prescribing a list of subject matters for which studies cannot be required as part of a complete application and specifying certified professionals from whom municipalities would be required to accept studies. Staff need more information to understand the requirements and criteria that would inform the identification of certified professionals, and which information and materials must be accepted.

Municipalities rely on a wide range of studies to assess the impact of planning and development proposals on the community including the natural, social and built environments impacted by a proposal. A complete application should include the full range of technical studies necessary to allow planners and council to make evidence-informed decisions to ensure that proposed developments conform to provincial and municipal policy requirements (e.g., traffic, environmental, stormwater, heritage).

Municipalities vary widely in geography, population growth, infrastructure, and environmental sensitivity. Prescriptive regulations that would limit information and material that may be required in a complete application risks excluding studies needed in large and fast growing municipalities that have unique planning requirements or if prescribed narrowly may result in disputes and delays regarding interpretation, if study lists and terminology in a provincial regulation are not aligned to study lists and terminology currently set out in local official plans.

While staff recognize that the government is looking to create more consistent and predictable requirements across municipalities. Staff have concerns that the removal of studies would impact public safety and the ability of the city to mitigate negative impacts, including but not limited to:

- Sun/Shadow Studies
- Wind Studies
- Urban Design
- Lighting

As many parts of the GTA continue to urbanize with more compact forms of development, there is a need to maintain and manage public spaces and the pedestrian realm. Studies such as Sun/Shadow, Wind, and Lighting to ensure public spaces are comfortable and user friendly. Sun/shadow and wind are common areas of concern and interest for the public when they come out to public meetings.

In Markham, there have been two recent examples at Yonge/Grandview-Barney Danson Park where studies showed an undesirable condition for public spaces which resulted in mitigation measures being implemented to preserve public spaces.

The tools identified have been widely adapted by the City and other municipalities in response to addressing previously fragmented and overly iterative reviews related to sun and shadow analysis, wind and lighting. Omitting these from the complete application process would reverse the utility of these planning tools, which are highly useful for complex development applications.

The Province should consider alternatives to a regulatory approach and instead consider developing detailed guidance for municipalities that affords some flexibility and tailoring and avoid a prescriptive one-size-fits-all approach.

Proposed regulations As-of-Right Variations from Setback Requirements

Schedule 7 of Bill 17 proposes to amend the Planning Act to provide regulation-making authority to reduce planning applications for minor variances. If passed, Bill 17 would

enable the Minister of Municipal Affairs and Housing, by regulation, to permit variation to a zoning by-law to be “as of right” if a proposal is within a prescribed percentage of the required setback (the minimum distance a building or structure must be from a property line) on specified lands. Specified lands would include parcels of urban residential lands outside of the Greenbelt Area, and exclude areas such as hazardous lands, and lands near shorelines and railways.

Staff have concerns about the following matters:

- Minimum standards for life safety such as fire or emergency access
- Applicability to properties that already have reduced standards
- Applicability to legal and non-conforming uses
- Parking supply in low density residential developments

Staff do not support the proposed as-of-right variance permissions proposed in Bill 17. In 2024, Markham Council enacted a new Comprehensive Zoning By-law that was the culmination of a 10-year, cross commission, City-initiated project that reviewed and evaluated zoning criteria which resulted in new zoning provisions that reflect current development constraints and emerging trends within the building industry. To ease development pressure as expressed by the Province, Markham established new setback criteria at minimum acceptable levels to facilitate functional development while ensuring that new development respects and reflects the existing pattern and character of adjacent developments.

Further, the proposal to grant as of right variations for setbacks downloads the minor variance process to zoning examiners within the Building Standards Department. The role of examiners will be expanded to make discretionary decisions on an application-by-application basis which will result in additional time for review or the need for additional resources. This decision may also have further impacts on By-law enforcement as they will be required to address potential variations in the field.

Proposed changes to the Transit-Oriented Communities Act

The Ministry of Infrastructure is proposing to amend the Transit-oriented Communities Act, 2020 with the intent of streamlining the planning and delivery of the Transit Oriented Communities (TOC) program and delegating certain powers under the TOC Act to other prescribed bodies. As per the Province, the TOC program aims to build vibrant, mixed-use communities that will bring more housing (including affordable housing options), jobs, retail, public amenities and entertainment within a short distance of transit stations.

The proposed amendments would expand the TOC definition under the Act to include provincial transit projects along the GO and LRT networks, and exempt transit-oriented community agreements with municipalities and building partners requiring an Order in Council approval when certain other approvals are already in place. Entities with delegated powers would also be able to enter into an agreement registered on title with any owner of land to support the TOC project.

In the Markham context, this would mean the potential for Transit Oriented Communities along the Stouffville GO line in areas such as Markham Centre and Milliken Centre, in addition to the Yonge North Subway Extension which was previously identified as a priority transit project under the in-effect Transit Oriented Communities Act.

Staff are generally supportive of the proposed change to support the advancement of transit oriented mixed-use communities on transit station area lands. However, Transit Oriented Communities (TOC) must align with the vision of local municipalities for Strategic Growth Areas and Protected Major Transit Station Areas. In many cases, municipalities have undertaken planning studies, secondary plans, and technical studies in consultation with the public and stakeholders to establish a vision to guide future growth, development, and appropriate services and amenities in these areas.

Staff generally support the proposed changes where the implementation of Transit Oriented Communities align with the local municipalities visions or plans are developed in consultation with the municipality to ensure local priorities are protected.

Building Code - Eliminate Secondary Approvals for Innovative Construction Materials

The Canadian Construction Materials Centre (CCMC) is a national body that assesses and tests products for compliance with the National Construction Codes. Currently, Ontario requires secondary approval (i.e., Minister's Ruling) for innovative construction products that have already been evaluated by the CCMC before they can be used in Ontario.

Through legislative changes to the Building Code Act and later corresponding regulatory changes to the Ontario Building Code, the proposed amendments would remove the requirement for this Minister's Ruling, including fees associated with the applications. If passed, the legislative changes are proposed to come into effect on July 1, 2025.

Additional matters:

- Clarifying that municipalities do not have the authority to require their own unique standards beyond the Building Code;

- Amending the 2024 Building Code, through Minister's regulation, to eliminate application fees for Canadian manufacturers, and exploring opportunities to prioritize Canadian manufacturers;
- Standardizing municipal data tracking for land use planning, building code and permit applications, and leveraging technology to better automate planning and permitting processes, and publishing municipal planning data on an Ontario government webpage; and
- Consulting on whether amendments to the Ontario Building and Fire Codes to provide more flexible design and construction options for single-unit four storey townhouses could improve their economic viability, coupled with a focused package of compensating measures for fire and life safety requirements.

Proposed changes to Ministry of Infrastructure Act and Metrolinx Act

The proposed amendment to the Acts would provide the Minister of Transportation and Metrolinx with the authority to direct municipalities and/or a municipal agency to provide information or data to support the development of provincial transit projects or Transit-Oriented Communities projects.

The delivery of major transit projects requires relying on the exchange of information and data to ensure transit project planning and delivery is successful. If approved, the proposed amendment would contribute to accelerating timelines associated with information and data for transit project delivery.

Staff are supportive of information and data sharing where the process can be automated through open data. Frequent and uncoordinated data requests are not efficient and require time and resources for municipalities to complete.

Proposed changes to the Development Charge Act

While the Bill proposes amendments to several Provincial statutes, the Minister of Municipal Affairs and Housing has indicated that changes to the *Development Charges Act, 1997* are the main focus at this time. The stated objectives of the Bill are to (1) simplify and standardize development charges, and (2) reduce development charges as part of a broader effort to lower the cost of housing construction.

The proposed changes to the development charge legislation can be grouped into two categories:

- a) Those that will take effect immediately upon Royal Assent; and

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- b) Those that will take effect through Regulations, some of which are enabled by the proposed new legislative authority.

Comments on selected changes are to be submitted to the Province by June 11, 2025 and these are included in the attached Appendices. Below are summary highlights of the proposed changes.

Changes that take Effect Upon Royal Assent

- 1) *Exemption for Long Term Care Homes*
 - a. This will reduce DC revenue but may not be material when assessed within the broader scope of the other changes/potential changes to the legislation.
- 2) *Streamlined Process for Selected DC By-Law Amendments*
 - a. A DC Background Study will no longer be required to amend a by-law if the change is meant to reduce the DCs, e.g. eliminate or reduce indexing.
- 3) *Changes to the Application of the DC Freeze*
 - a. Amount due will be the lower of the frozen DC amount plus interest or, the amount calculated using the current rate in effect.
- 4) *Residential DC Payments due at Occupancy*
 - a. DCs will be payable at occupancy rather than at building permit issuance but developers can opt to pay earlier (possibly at building permit issuance).

Of the four changes noted above, number four (4) will have the biggest impact on the City financially and operationally. It is also an area in the proposed legislation where there is uncertainty regarding what the legislation instructs, versus its intent, as it relates to the levying of interest between building permit issuance and occupancy – this may be clarified before the Bill receives Royal Assent. If the legislation remains as written, interest can be charged up to occupancy, and this will lessen the financial impact to the City even though there are cashflow implications related to collecting at occupancy. If interest cannot be collected to occupancy, this will have a more severe impact on the City's cashflow and ability to have funds available for infrastructure installation.

Changes to Take Effect Through Regulation

- 1) *Merging of Service Categories for DC Credits*
 - a. Consideration to allow credits to be applied across multiple service categories.
- 2) *Limitation on Eligible Capital Costs*
 - a. Potential restriction on the type of capital costs that can be recovered through DCs. The focus has been on the inclusion of land costs, but this proposed amendment expands to all capital costs.
- 3) *Definition of a Local Service*
 - a. Services within a development not recoverable through DCs are to be defined.
- 4) *Methodology for Determining Benefit to Existing (BTE)*

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- a. Development of criteria to determine the extent to which new infrastructure benefits the existing population, through consultations with municipalities and the development industry.
 - 5) *Standardize DC Background Studies and Annual Reports*
 - a. Expand requirement to spend or allocate 60% of reserve funds annually, to all services and broaden reporting requirements for the annual Treasurers DC Statements.

Other Proposed Change

- 1) *Exploring Utility Model for Water and Wastewater Infrastructure*
 - o Province is exploring the use of a public utility model for water/wastewater for infrastructure expansion which could include a municipal services corporation board, with access to financing opportunities.

There are proposed changes to take effect through regulation that could have a larger impact on the current DC regime, namely, limiting eligible capital cost (e.g. land) and prescribing a BTE methodology. These changes have the potential to limit the City's ability to adequately recover costs related to growth, leading to a transfer of these costs to the existing tax base or other funding sources – this impacts the tenet of growth paying for growth. Reductions in DC eligible capital costs, will limit the City's ability to fund capital projects and could lead to a slowdown in infrastructure construction, which in itself limits growth. The risks associated with these potential changes will be assessed once more information is available.

The Province has indicated its intent to explore a utility model for water and wastewater infrastructure, and this could mean moving water and wastewater infrastructure from development charges to the rate payers. While this might make it cheaper to build new housing by lowering development charges, it will lead to higher water rates for existing residents and businesses.

The City would like to participate in any working group formed to discuss (1) the proposed utility model to construct water and wastewater services, (2) the BTE model and (3) the determination of eligible capital costs, which may focus on the inclusion of land.

Comments on seven selected changes to the Development Charges Act are to be submitted to the Province by June 11, 2025 and these are included in the attached Appendices. The areas for feedback are:

- 1) Merging of Service Categories for DC Credits
- 2) Definition of a Local Service
- 3) Residential DC Payments due at Occupancy
- 4) Streamlined Process for Selected DC By-Law Amendments
- 5) Limitation on Eligible Capital Costs
- 6) Changes to the Application of the DC Freeze

7) Exemption for Long Term care Homes

The areas excluded for comments include the methodology for determining BTE (which will be the subject of future consultations) and the standardization of DC Background Studies and Annual Reports which are considered administrative with no impact on the DC recoveries.

Staff are scheduled to carry a report on DC (deferral) options to committee on June 17, 2025. In light of these proposed changes and the clarity required particularly around the application of interest paid at occupancy, this report will be tabled later in the summer.

FINANCIAL CONSIDERATIONS

Changes resulting from Bill 17 have potentially significant financial implications to the City, particularly those related to Development Charges (DCs). Under the framework currently in place (i.e., with impacts from Bill 23), the City is already facing a revenue pressure amounting to approximately \$80 million in potential DCs and parkland cash-in-lieu it is not able to collect. Bill 17 has the potential to further limit the City's ability to recover growth-related costs. Changes to the timing of DC payments also has an impact on the City's cash flow, potentially affecting the timing of infrastructure delivery or possibly requiring the City to borrow funds to support capital projects. In the absence of another revenue source and unless growth-related expenditures are reduced, these costs will be shifted to the tax base and potentially result in higher tax rate increases. Staff will continue to monitor the impact of these changes and incorporate them, as required, into budget processes going forward.

HUMAN RESOURCES CONSIDERATIONS

There are no human resource impacts associated with the recommendations in this report

ALIGNMENT WITH STRATEGIC PRIORITIES:

Bill 17 does not align with Goal 3.2 of Building Markham's Future Together, 2020-2023 (BMFT): "Build complete communities that offer a range of housing and employment opportunities, transportation options and outstanding community amenities". While the Bill will support a desire to increase housing supply by streamlining development approvals, it proposes to remove the ability of municipalities to require studies necessary studies that inform good planning and further erodes municipal decision making on planning for complete communities. Further, the Bill may limit the ability of the municipality to enact the principle of growth pays for growth.

BUSINESS UNITS CONSULTED AND AFFECTED:

All impacted city departments have been consulted on this staff report

RECOMMENDED BY:

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Commissioner, Development Services

Joseph Silva
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ATTACHMENTS:

Appendix A - Detailed Comment on Bill 17