

REPORT TO: Planning and Strategic Initiatives Committee

DATE OF MEETING: September 8, 2025

SUBMITTED BY: Garrett Stevenson, Director of Development and Housing Approvals, 519-783-8922

PREPARED BY: Arwa Alzoor, Planner, 519-783-8903

WARD(S) INVOLVED: Ward 9

DATE OF REPORT: August 13, 2025

REPORT NO.: DSD-2025-341

SUBJECT: Zoning By-law Amendment Application ZBA25/021/Q/AA
Address: 434- 436 Queen Street South
Owner: Son Lien Pham

RECOMMENDATION:

That Zoning By-law Amendment Application ZBA25/021/Q/AA (Son Lien Pham) requesting to amend Zoning By-law 2019-051, for the purpose of changing the zoning of the subject property (434- 436 Queen Street South) from 'Existing Use Floodplain Zone (EUF-1)' to 'Existing Use Floodplain Zone (EUF-1) with Site Specific Provision (437)', specified and illustrated as the 'Subject Area' on Map No. 1, be approved in the form shown in the 'Proposed By-law' attached to the Report DSD-2025-341 as Attachment 'A2'

REPORT HIGHLIGHTS:

- The purpose of this report is to evaluate and provide a planning recommendation regarding the Zoning By-law Amendment Application (ZBA) for the subject property, to add *retail* as a permitted use for the property addressed as 434- 436 Queen Street South. It is Development and Housing Approvals staff's recommendation that the ZBA be approved.
- The key finding of this report is that *retail* is an appropriate use of the subject property and staff is recommending approval of the Zoning By-law Amendment Application to add a Site-Specific Provision to add *retail* as a permitted use in the existing building which is located in the Existing Use Floodplain Zone (EUF-1).
- There are no financial implications associated with the Zoning By-law Amendment Application.
- Community engagement included a notification that was advertised in The Record on August 15, 2025, in accordance with Council Policy MUN-PLA-1170.
- This report supports the delivery of core services.

- This application was deemed complete on July 18, 2025. The Applicant can appeal these applications for non-decision after October 16, 2025.

BACKGROUND:

Dan Mairovits, the tenant of the ground-floor unit, has submitted a Zoning By-law Amendment Application to request permission for a “retail use alongside the existing non-residential use” on the ground floor of the subject property. The current use of the unit on the ground floor is a *personal service establishment*.

The subject property also contains two existing residential dwelling units on the second floor. These units are not subject to any changes under this application.

According to City records, the front parking area is legal non-conforming. The property is entirely located within the Existing Use Floodplain Zone (EUF-1). This zone is intended to recognize existing uses within a floodway or floodplain. Permitted uses are limited to:

- The existing use,
- Uses of the same type as the existing use,
- Residential uses with the same or fewer dwelling units than currently exist.

This restriction is in place to prevent further development due to the flooding hazard.

Additionally, under Council Policy MUN-PLA-1170, landowners are permitted to submit a one-time Zoning By-law Amendment Application at no cost to facilitate a change in use or to add an additional permitted use.

REPORT:

The subject property, municipally addressed as 434- 436 Queen Street South, is located in the Mill Courtland Woodside Park Neighbourhood, south of Courtland Avenue East on Queen Street South. The property backs onto Schneider Creek and is surrounded by lands designated as Existing Floodplain Zone (EUF-1) and Natural Conservation Zone (NHC). Notably, the entire property is situated within the floodplain.



Figure 1: Location Map: 434- 436 Queen Street South



Figure 2: Front view of the Subject Property (Google Streetview)

The site contains an existing two-storey building with a mix of uses: the ground floor is a *personal service* use, and the second floor contains two residential dwelling units. The building functions as a semi-detached structure, with the adjoining half located on the neighbouring property at 432 Queen Street South.

The property is zoned Existing Use Floodplain Zone (EUF-1) in Zoning By-law 2019-051. The EUF-1 Zone permits existing uses to legally continue within the floodplain. Any proposed change in use through a Zoning By-law Amendment should be to a less sensitive use or to one that is similar to the currently permitted uses, in order to align with floodplain management policies.

The property owner is proposing a Zoning By-law Amendment to permit *retail* as a permitted use on the ground floor of the subject property. This proposed use is similar in nature to the historically permitted *personal services* use and aligns with the existing mixed-use character of the building. No new development, expansion, or physical modifications are proposed to the building or the site.

Planning Act, R.S.O. 1990, c. P.13 25.

Section 2 of the Planning Act establishes matters of provincial interest and states that the Minister, the council of a municipality, a local board, a planning board and the Tribunal, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as,

- e) The supply, efficient use and conservation of energy and water;
- f) The adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- g) The minimization of waste;
- h) The orderly development of safe and healthy communities;
- j) The adequate provision of a full range of housing, including affordable housing;
- k) The adequate provision of employment opportunities;
- p) The appropriate location of growth and development;
- q) The promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;
- r) The promotion of built form that,
 - (i) Is well-designed,
 - (ii) Encourages a sense of place, and
 - (iii) Provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;
- s) The mitigation of greenhouse gas emissions and adaptation to a changing climate.

These matters of provincial interest are addressed and are implemented through the Provincial Planning Statement, 2024, as it directs how and where development is to occur. The City's Official Plan is the most important vehicle for the implementation of the Provincial Planning Statement, 2024 and to ensure Provincial policy is adhered to.

Provincial Planning Statement, 2024

The Provincial Planning Statement (PPS), 2024 is a streamlined province-wide land use planning policy framework that replaces both the Provincial Policy Statement, 2020 and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 while building upon housing-supportive policies from both documents. The PPS 2024 came into force on October 20, 2024.

The Provincial Planning Statement, 2024 (PPS) speaks to development adjacent to a river/within a floodplain as is the case with this application. While 5.2.2 notes that

development shall generally be directed to areas outside of these hazards, 5.2.8 states that development and site alteration may be permitted in these areas subject to provincial standards, and confirmation that the risks to public safety are minor or could be mitigated.

As the applicant is proposing no site alterations at this time, and the use is not changing to a use identified in 5.2.6 (institutional, essential emergency service, or a use associated with the disposal, manufacturing, treatment or storage of hazardous substances), the application is in alignment with the PPS.

Planning staff is of the opinion that the proposed application will facilitate the continued use of the ground floor of the existing building for non-residential/commercial uses, and based on the foregoing, staff is of the opinion that this proposal is in conformity with the PPS.

Regional Official Plan (ROP)

The subject lands are designated as 'Delineated Built Up Area' in the Regional Official Plan (ROP). The ROP supports the introduction of *retail* uses within the Delineated Built-Up Area as part of its broader objectives to promote intensification, mixed-use development, and the creation of complete communities. Policies for the Built-Up Area encourage a compact urban form that integrates a variety of land uses, including housing, employment, shopping, and services, in locations well-served by infrastructure and transit. The Region of Waterloo advises that they do not have concerns with the proposed Zoning By-law Amendment Application.

City of Kitchener Official Plan (OP)

The City of Kitchener OP provides a long-term land use vision for Kitchener. The vision is further articulated and implemented through the guiding principles, goals, objectives, and policies which are set out in the Plan. The Vision and Goals of the OP strive to build an innovative, vibrant, attractive, safe, complete and healthy community.

Urban Structure

Urban structure components provide guidance on growth management and structure for the City's urban area. Understanding the organization of the City on a macro level is necessary for directing growth to appropriate locations.

The Urban Structure of the subject lands is Green Areas as identified in [Map 2](#) of the Official Plan. The property is located along an existing Transit Corridor on Queen Street and is beyond the boundary of the Urban Growth Centre (Downtown) and the surrounding Protected Major Transit Station Areas.

The planned function of green areas is to protect and conserve the ecological functions and features of the surrounding system. within these areas, the land use designation may include Natural Heritage Conservation and Open Space.

Land Use Designation

The subject lands are designated Natural Heritage Conservation as identified in [Map 3](#) of the Official Plan. As described in Section 15.D.9 of the Official Plan, the primary intent of

the Natural Heritage Conservation land use is to protect and conserve natural heritage features and their associated ecological functions. This land use has been applied in this case given its relative distance to Schneider Creek and the identified floodway. Policy 15.D.9.2 g) states that existing legal uses as of the plan's date of adoption are permitted. However as outlined in policy 15.D.9.3, alternatives to existing uses may be permitted through a zoning by-law amendment, provided that the following conditions are met:

- a) the subsequent use is compatible with the surrounding land use designations;
- b) no new dwelling units are created;
- c) the use presents less of a risk to life and property in the event of flooding;
- d) the new use is not specifically prohibited by the Natural Hazard Policies in Section 6.C.2; and,
- e) approval is received from the Grand River Conservation Authority.

The prohibited uses described in Policy 6.C.2.6 include institutional uses, essential emergency services, land uses associated with the outdoor storage of materials, and uses associated with the disposal, treatment, or storage of hazardous chemicals or substances. The proposed use would not fall under these categories of uses.

The site is located within the One Zone Policy Area as shown on [Map 7](#). As such, the entire flood plain is considered the floodway, and no new development or site alterations will be permitted except in accordance with Policy 6.C.2.5

Policy 6.C.2.22 supports the consideration of alternative uses on lands zoned EUF-1 through a Zoning By-law Amendment, provided that the subsequent uses are compatible with the surrounding land use designations, no new dwelling units are created, the use presents less of a risk to life and property in the event of flooding, and approval is received from the Grand River Conservation Authority.

Planning Staff are of the opinion that the application conforms to the Official Plan.

Requested Zoning By-law Amendment:

The subject lands are zoned Existing Use Floodplain (EUF-1) in the Zoning By-law 2019-051. The purpose of EUF-1 Zone is to recognize existing uses within a floodway or floodplain.

The permitted uses within an EUF-1 Zone are restricted to existing uses, the same type of use as the existing use, and/or a dwelling with the same or fewer dwelling units than those which were existing on and continually used since the effective date of the zoning by-law.

The current existing uses include personal services on the ground floor and two residential dwelling units on the second floor.

Table 14-1: Permitted Uses within the Existing Use Floodplain & Future Use Zones	
Use	EUF-1
Existing uses	✓
The same type of use as the existing use	✓

A dwelling with the same or fewer dwelling units than that existing on, and continually used since the effective date of this By-law in a dwelling that was existing on the effective date of this By-law	✓
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In order to allow the proposed *retail* use on the ground floor, a Zoning By-law Amendment is required to permit the additional new permitted use. The amendment proposes to add Specific Provision (437) to Zoning By-law 2019-051 to permit *retail* as a permitted use on the property.

Planning Analysis

The proposed *retail* use is compatible with the surrounding land use designations, no new dwelling units are being created, and the use presents less of a risk to life. Accordingly, the Zoning By-law Amendment Application meets Policy 6.C.2.22 and would conform with the Official Plan.

As there are currently no proposals for additions, alterations to or replacement of existing buildings, the maximum building floor area, and setbacks set out in the Zoning By-law would not be applied as per Section 14.3 of the Zoning By-law. No other alternative zoning regulations would be required to be added to Site-Specific Provision (437).

In addition, the parking rate required for a *retail* use is the same as the rate for a *personal service* use, which is a minimum of one (1) parking space for every 33 m² of Gross Floor Area (GFA). The current parking situation on the property is legal non-conforming.

The proposed *retail* use is not expected to increase flood-related risks to the property nor to its residents, tenants, or customers. It is considered a compatible and appropriate use for the subject property and is consistent with the character of the surrounding neighbourhood.

The Grand River Conservation Authority (GRCA) has been directly involved in the review of this application. The GRCA has confirmed that there is no objection to the proposed use of the existing building and lands, as it would not result in additional impacts to flood flows or increase flood risk.

Planning staff is of the opinion that the proposed Zoning By-law Amendment Application to add Site Specific Provision (427) will benefit the subject property and the surrounding community. Allowing the requested *retail* use will permit the applicant to expand on the existing business within the existing building on the subject property. Allowing the requested use is appropriate and compatible for the subject lands and surrounding neighbourhood.

Department and Agency Comments:

Circulation of the Zoning By-law Amendment Application was undertaken on July 24, 2025, to all applicable City departments and other review authorities. No major concerns were identified by any commenting City department or agency. Copies of the comments are found in Attachment 'C' of this report.

Planning Conclusions

In considering the foregoing, staff are supportive of the proposed Zoning By-law Amendment Application to permit the use of *retail* on the subject lands. Staff is of the opinion that the subject application is consistent with policies of the Provincial Planning Statement, the Regional Official Plan, and the City of Kitchener Official Plan and represents good planning. It is recommended that the application be approved.

STRATEGIC PLAN ALIGNMENT:

This report supports the delivery of core services.

FINANCIAL IMPLICATIONS:

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget – The recommendation has no impact on the Operating Budget.

COMMUNITY ENGAGEMENT:

INFORM – This report has been posted to the City's website with the agenda in advance of the council/committee meeting. Notice of the Statutory Public Meeting was also advertised in The Record on August 15, 2025 (a copy of the Notice may be found in Attachment 'B').

PREVIOUS REPORTS/AUTHORITIES:

- Planning Act, R.S.O. 1990, c. P.13
- Growth Plan, 2020
- Provincial Policy Statement, 2020
- Region of Waterloo Official Plan
- City of Kitchener Official Plan 2014
- City of Kitchener Zoning By-law 2019-051

REVIEWED BY: Malone-Wright, Tina –Manager, Development Approvals, Development and Housing Approvals

APPROVED BY: Readman, Justin - General Manager, Development Services

ATTACHMENTS:

Attachment A1 - Map No. 1
Attachment A2 - Proposed By-law
Attachment B - Newspaper Notice
Attachment C - Department and Agency Comments