King County
Department of Local Services
Permitting Division
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https://kingcounty.gov/depts/local-services/permits

July 18, 2025

Gage Fuller
Jupiter Power
1108 Lavaca Street
Austin, Texas 78701

RE: Critical Areas Designation CADS25-0076, Parcel 3624079039
Status: Complete

Dear Applicant:

The King County Department of Local Services, Permitting Division (Permitting) has completed a Critical Area Designation (CAD) for King County parcel no. 3624079039, as requested in permit application no. CADS25-0076. During preparation of this CAD, we reviewed available published data and mapping, critical areas data from nearby completed permits as applicable, and documents submitted with the application including a wetland and stream report by Energy Renewal Partners (ERP), LLC dated March 2025 and June 26, 2025 and wildlife and habitat report dated June 26, 2025 by Dudek. As part of our review, we also visited the parcel to confirm the site conditions.

We conclude that each of the critical areas discussed below are currently present within the limits of the site (as defined below). These determinations as to the existence, location, and classification of critical areas are effective for five years from the date of this letter, unless there is a change in site conditions or a state or federal agency adopts critical area maps that conflict with this determination.

The determinations of this CAD are valid only for the *site,* which for the purposes of this designation refers to the limits of the parcel identified above, as shown on the attached critical areas site map. Off-site critical areas have also been identified and classified within 300 feet of the site to the maximum extent feasible, given limitations in visibility and off-site access. The area including both the site and off-site areas within 300 feet is referred to as the *evaluation area*.

Additional off-site critical areas may be present that impact future development but could not be identified within the scope of this CAD. For this reason, all information presented regarding the existence, location, and classification of off-site critical areas within the evaluation area is preliminary and provided for the applicant's reference only. Any applicable critical area standards

and buffers relating to off-site critical areas within the evaluation area will be finalized at the time of critical areas review of a permit application.

If a development proposal includes alterations outside of the site as defined above, additional information such as an expanded critical areas report addressing the area within 300 feet of all proposed alterations may be required. In some cases, a new CAD which encompasses that area may also be required.

Please note that per the King County Code (KCC) Chapter 21A.24, many critical area standards and regulations, including critical area buffers, may vary depending on the specifics of the proposed land use or development. This CAD has been prepared assuming development activities typically associated with residential uses. Some critical area standards and buffer widths that may apply under residential use are discussed in this CAD. All information regarding critical area standards and regulations, including critical area buffers, should be understood to be preliminary and is provided for the applicant's reference only. A CAD does not represent a comprehensive source of all applicable critical area standards or other regulations that may apply to a development proposal. The applicant is responsible for preparing a future permit application with the correct buffer widths and other limitations of use specific to their development proposal and all applicable critical areas code. Compliance with all critical areas code and regulations including the application of appropriate buffer widths will be determined at the time of critical areas review for a future development permit.

Steep Slope Hazard Area (KCC 21A.24.310)

Steep slope hazard areas are defined as those slopes that exceed 40 percent inclination (about 21 degrees) and have a vertical elevation change of at least 10 feet (see KCC 21A.06.1230). These areas may be subject to risks resulting from slope instability, landsliding, or erosion.

Where development is proposed within or adjacent to a steep slope hazard area, a permit application is typically required to include a geotechnical or geological assessment of the hazard, including a complete characterization of the slope surface and subsurface conditions, potential risks under future conditions, as well as recommendations for appropriate hazard mitigation that eliminates or minimizes the risks. Mitigation may include changes to the development proposal (design changes or additional structures) or simply avoidance by positioning the development outside of the hazard zone.

The standard buffer required between a steep slope hazard and any proposed development (which is to remain unaltered native vegetation), without providing a geotechnical study, is generally 50 feet. Structures must maintain an additional 15-foot building setback (BSBL) beyond the buffer. Where a geotechnical study confirms that a smaller buffer is adequate to eliminate or minimize the risk of property damage or injury resulting from the hazard and the proposed alterations, the buffer may be reduced by Permitting during review of a development permit.

The steep slopes are roughly as shown on the attached site plan. Please note that steep slope data are derived from a LiDAR-generated digital elevation model, filtered for slopes over 40 percent inclination. In some cases, particularly in the absence of distinct slope breaks, it may be difficult to delineate the top and toe of steep slope hazard areas without additional, site-specific information. For that reason, depending upon the nature of a future building proposal, a detailed topographic survey by a licensed surveyor may be advisable or even required.

In this case, steep slope hazard areas with roughly 10 to 55 feet in vertical rise are located in the eastern portion of the parcel. The steep slope hazard areas, standard 50-foot buffer, and 15-foot building setback are shown approximately on the attached critical areas site map. Depending on the specifics of the proposed development, the buffer width may be modified by Permitting geological staff at the time of development permit review, based upon review of the slope conditions and stability assessment presented in a geotechnical study.

Note that per the King County Surface Water Design Manual, some drainage BMPs may be unallowable within 50 feet or require additional geotechnical study within 200 feet of the steep slope and other geological hazard areas, or on slopes over 15% inclination.

Wetlands (KCC 21A.24.318 to 21A.24.345)

Wetlands include areas that are inundated or saturated by ground or surface water at a frequency and duration sufficient to support vegetation adapted for life in saturated soil conditions (see KCC 21A.06.1391). In King County, wetlands are classified as Category I, II, III, or IV based on the adopted *Washington State Wetland Rating System for Western Washington* by the Washington State Department of Ecology. Wetland ratings and development standards recognize the potential that wetlands have to provide benefits to both ecological and hydrological function.

A buffer is required between a wetland and any proposed development. Within a currently undeveloped buffer, no development of any kind is usually allowed; this includes clearing, grading, or any other alteration of the existing vegetation. Within legally developed buffers, maintenance of existing structures and landscaping is allowed as well as limited expansions of some structures. Structures must maintain an additional 15-foot building setback (BSBL) beyond the edge of the buffer.

The width of the buffer depends on multiple factors, such as: the wetland rating, function, site location, proximity to other critical areas, and intensity of impact of adjacent land use. This CAD has been prepared assuming high impacts as is typically associated with high impact projects (KCC 21A.24.325A.2.a), because the proposed project is a battery plant for electricity storage. Since the parcel is located within the Urban Growth Area, residential development would also be considered a high impact project. The applicable wetland buffer under these assumptions is referred to as a "standard buffer" and is shown on the attached critical areas site map for reference.

In this case, the site contains a buffer from a Category **III** wetland**.** The standard buffer width for this category of wetland (which on an undeveloped lot is to remain unaltered native vegetation) is 110 feet for moderate impact projects. Since the proposed project is a commercial enterprise, the high impact buffer of 150 feet is shown on the attached. Structures must honor an additional 15-foot building setback beyond the buffer. The initial report by ERP, LLC (dated March 2025) determined that much of the parcel lacked wetland characteristics. The second report by ERP, LLC (dated June 26, 2025) addressed the Category III wetland that is located directly east of the northeast property corner. This wetland features a habitat score of 7 points. Wetlands such as these are assigned 150-foot buffers for high-impact projects.

Aquatic Areas (KCC 21A.24.355 to 21A.24.380)

Aquatic areas include all shorelines of the state, rivers, streams, marine waters, and other open bodies of water such as lakes, ponds, and reservoirs. Manmade features such as reservoirs, ponds, and ditches may also qualify as aquatic areas if any portion of the contributing water is from a natural source (see KCC 21A.06.072C). In King County, aquatic areas are categorized as Type S, F, N, or O waters depending on the physical and ecological characteristics of the water feature.

A buffer is required between an aquatic area and any proposed development. Buffers are measured from the ordinary high water mark (OHWM) of the aquatic area. The width of the aquatic area buffer depends on multiple factors, such as: the aquatic area type, site location, and proximity to other critical areas. The applicable buffer based on our understanding of these factors is referred to as a "standard buffer" and is shown on the attached critical areas site map for reference.

Within a currently undeveloped buffer, no development of any kind is usually allowed; this includes clearing, grading, or any other alteration of the existing vegetation. Within legally developed buffers, maintenance of existing structures and landscaping is allowed as well as limited expansions of some structures. Structures must maintain an additional 15-foot building setback (BSBL) beyond the edge of the buffer.

In this case, the site contains a Type **F** aquatic area. The standard buffer width for this type of aquatic area (which on an undeveloped lot is to remain unaltered native vegetation) is 115 feet. Structures must honor an additional 15-foot building setback beyond the buffer. The aquatic area is Fisher Creek which flows just inside the northwest portion of the parcel. Fisher Creek was addressed in the reports by ERP (dated March 2025 and June 26, 2025). Fisher Creek is a Type F aquatic area since it is fish habitat. Since the parcel is located within the Urban Growth Area and the basin condition is moderate, this Type F aquatic area is assigned a 115-ft buffer.

There is an unmapped flood plain (KCC 21A.24.230) associated with this aquatic area. The elevation change between the ordinary high-water mark of the aquatic area and the proposed

development site is less than 10 feet based upon iMap. A minor flood study may be required to demonstrate the proposed development is not located within the flood hazard area.

Flood Hazard Areas (KCC 21A.24.223 to 21A.24.272)

The evaluation area contains an unmapped flood hazard area as defined in KCC 21.24.230, associated with the aquatic area. Determination of the limits of the unmapped flood hazard area is outside the scope of this CAD; this determination is made under a Floodplain Development Application. For this reason, a Floodplain Development Application will be required for the site prior to applying for any future development permit. As part of the Floodplain Development Application, a flood plain study as outlined in KCC Title 9 and the King County Surface Water Design Manual (currently Chapter 4.4.2) must be submitted.

Information regarding floodplain designations, elevations, flood insurance rate maps or the National Flood Insurance Program is available on the King County River and Floodplain Management Section website at Flood services - King County, Washington or you can call them at 206-477 4812.

If you have questions regarding how these flood hazard regulations may affect your future development plans, you can contact Permitting by phone at 206-296-6600 or by email at DPERWebInquiries@kingcounty.gov.

Wildlife Habitat Conservation Area (KCC 21A.24.382, 21A.24.383, and 21A.24.388)

The King County Comprehensive Plan and critical areas code identify wildlife and wildlife habitats for State listed species, Federally listed species, and species of local importance as being valued resources in King County. Wildlife habitat conservations areas (WHCAs) are areas of habitat for species that the County is required to protect. Identification and protection of WHCAs including but not limited to active breeding sites for State listed species, Federally listed species, and species of local importance will be required for future permits and may have an impact on timing of development activity (see KCC 21A.24.382.K).

In this case, we did not identify any specific wildlife habitat within the scope of this CAD. However, for future permits, wildlife surveys and habitat protection for additional State listed species, Federally listed species, and species of local importance may be required. Changes in wildlife habitat including but not limited to the establishment or abandonment of a breeding site by a protected species would constitute a change in site conditions and may supersede the WHCA findings of this CAD.

In their report (dated June 26, 2025) Dudek Consulting provided results of a field visit to address wildlife species of concern and provided the results of a Priority Habitats and Species (PHS) request from the Washington Department of Fish and Wildlife (WDFW). Dudek biologists did not observe

presence of any species of concern. No large raptor nests were observed. Pileated woodpeckers were not positively identified, drumming by pileated woodpeckers was not heard, and nest holes by pileated woodpeckers were not found. Dudek determined that Vaux's swifts have moderate potential to occur on the site because two large hollow trees or snags were found, but Dudek biologists did not observe Vaux's swifts in them. Dudek also determined that western toad may use the site. Western toads breed in lakes and streams with specific habitat characteristics and migrate up to three miles from these breeding sites. A PHS report from WDFW showing sensitive data could not be obtained since the applicant is not the property owner instead, the PHS report of 'masked data' was provided. Still the report by Dudek includes an email message with a WDFW staff member who said she conducted a search of sensitive species and habitats in the area and got no results.

Water Service

If potable water is required for development, a Certificate of Water Availability or approval of an alternative water source consistent with the priority order provided in KCC 13.24.138 will be required under KCC 21A.28.040. The permitting process for an alternative water source is conducted through King County Public Health or the Washington State Department of Health. Attached is a flow chart summarizing water service requirements and links to additional information.

It is the applicant's responsibility to verify water availability, in priority order, before submitting a permit application. Please note that if approval of an alternative water source requires establishment of a well, both pre-approval of the well location as well as final approval following development of the well are required by the permitting agency. Site disturbances within critical areas or buffers associated with development of a well would also require a clearing and grading permit from King County Permitting. The King County iMap website provides mapped information on water service providers: to view, navigate to the *Layer List*, select and expand the *Groundwater* tab, and then select the sublayer *Water service areas*. If you have questions about these requirements, please contact a Permit Review Coordinator at the Permitting Division.

Closure

This Critical Areas Designation has been prepared in accordance with KCC 21A.24.500 and is intended to document Permitting's determinations regarding the existence, location and classification of critical areas on the site, as defined above. It is not based on a professional survey of the site. As a result, this CAD may only be relied on for the type and general location of critical areas; it does not represent the precise boundaries of identified critical areas. Depending upon the nature of a future permit application and the characteristics of the site, a detailed topographic survey by a licensed surveyor may be advisable or even required. This document is not an approval of existing or proposed development.

Depending on the scope and type of development proposed on the site, critical area buffers and other regulations related to critical areas may vary from the discussion provided in this letter. Additional off-site critical areas may be present that affect future development but could not be identified within the scope of this CAD. Compliance with all applicable critical areas regulations will be required during critical areas review of all future permit applications. Additional data including but not limited to ecological studies, geotechnical reports, or a site survey may be required at the time of permit review. Additional reviews, including but not limited to drainage, floodplain, clearing, grading, critical areas, and fire flow may occur during the permit review process.

When you are applying to the Health Department for septic system design approval or water well site approval, please include a copy of this letter and any attachments with your application to them. Similarly, a copy should be included with any permit application submitted within the Critical Area Designation's effective period.

A clearing and grading permit would be required to clear land to access a well site, create access roads, or other actions within critical areas or their buffers prior to obtaining a building permit.

Please feel free to contact Chris Holcomb at cholcomb@kingcounty.gov if you have any questions regarding ecological critical areas or Keishi Hashimoto at khashimoto@kingcounty.gov if you have any questions regarding geological critical areas.

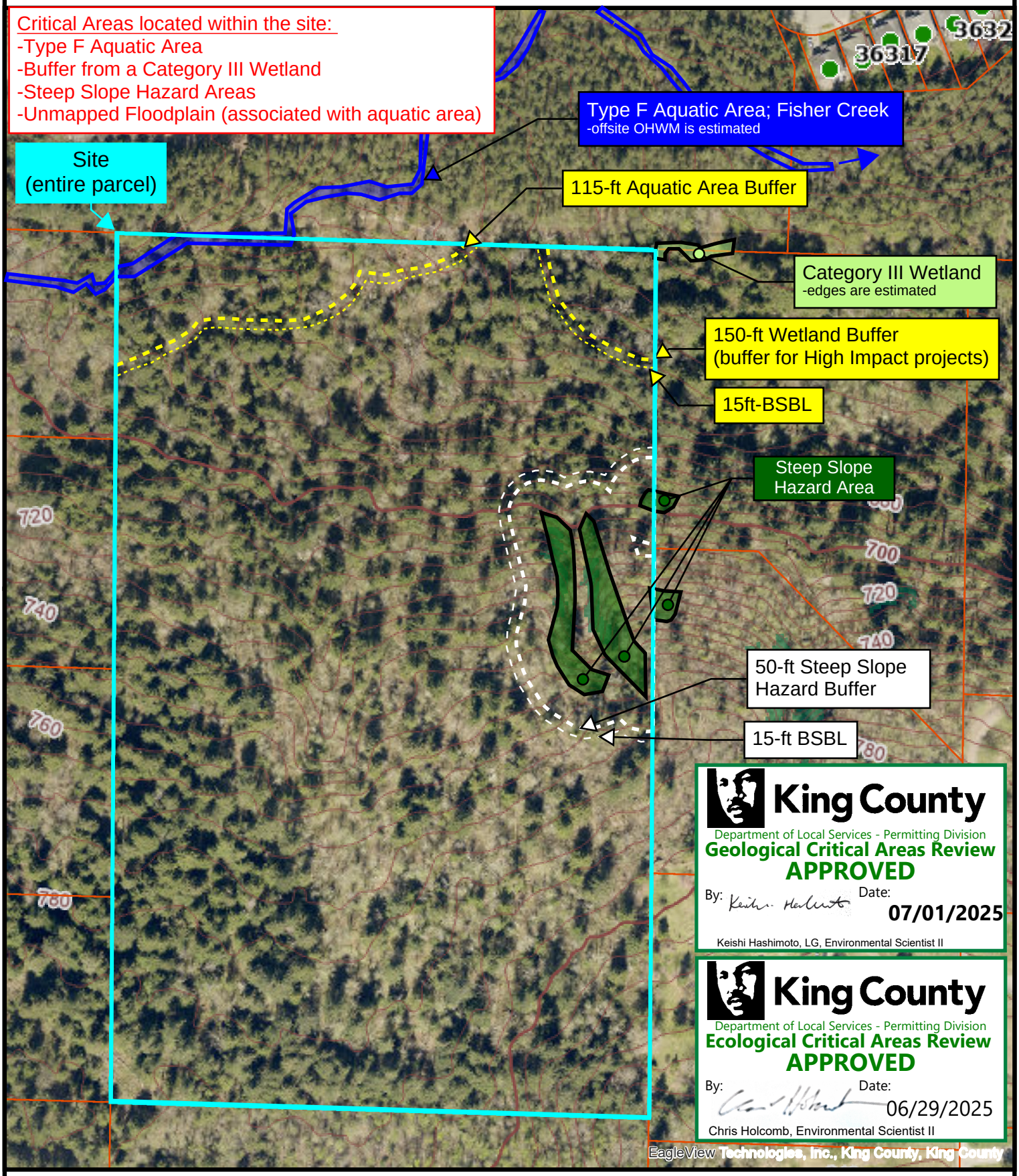
Sincerely,

Chris Holcomb, MES
Environmental Scientist - Ecologist

Keishi Hashimoto, L.G.
Environmental Scientist - Geologist

Attachments: Critical Areas Site Map
Water Service Requirements Flow Chart

CADS25-0076 Critical Areas Site Map



The information included on this map has been compiled by King County staff from a variety of sources and is subject to change without notice. King County makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. This document is not intended for use as a survey product. King County shall not be liable for any general, special, indirect, incidental, or consequential damages including, but not limited to, lost revenues or lost profits resulting from the use or misuse of the information contained on this map. Any sale of this map or information on this map is prohibited except by written permission of King County.

Date: 6/29/2025 Notes:

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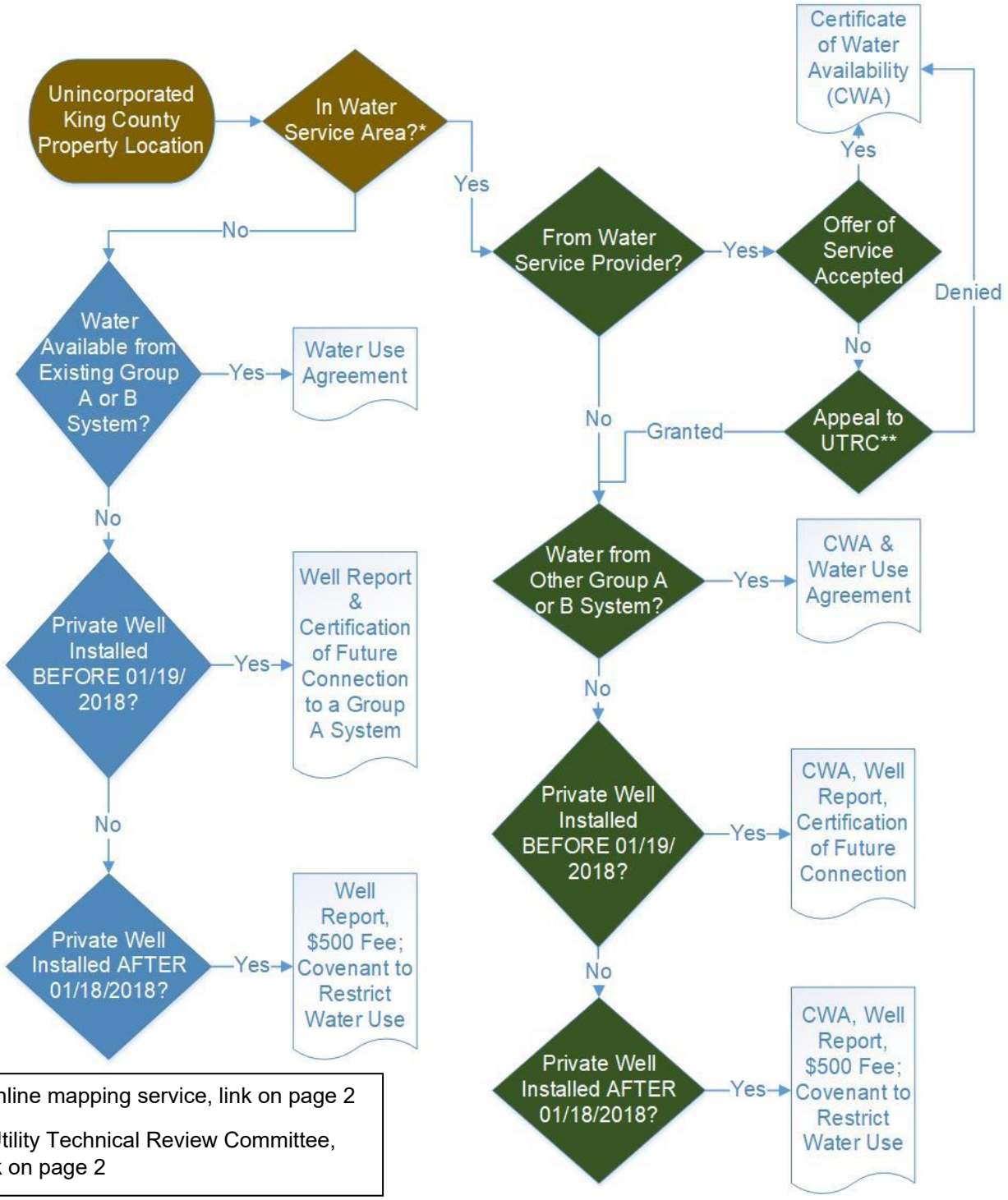
Water Service Requirements



*Online mapping service, link on page 2

**Utility Technical Review Committee, link on page 2

Water Service Area Provider Notes:

If the water service area provider is not willing or able to provide a Certificate of Water Availability (CWA) that indicates water is not presently available at a property, a letter or email to that effect from the water service area provider will be sufficient in lieu of the CWA.

If the water service area provider is not willing to sign the Certification of Future Water Connection, an email or letter to that effect from the water service area provider will be sufficient and the applicant can record the certification with the email or letter as an attachment, in lieu of the water district signature.

The certification of future connection for properties not located in a water service area need only to be signed by the owner.

If you feel the offer of water availability from the water service provider is not timely and/or reasonable, you can appeal their determination of water availability to the Utility Technical Review Committee (UTRC), King County Department of Natural Resources and Parks. The link to their appeal procedures and application requirements are included below.

Resources:

Parcel Located in King County, Check Jurisdiction and Zoning

* Interactive Water Service Area Maps

Water Availability; Certificate of Availability

Dept. of Ecology, Well Construction & Licensing and Well Notice of Intent

Water Connection; Certification of Future Water Connection

Water Connection; Certification of Future Water Connection to a Group A System

Water Usage, Recording Document; Covenant Form

Groundwater Maps and Reports

Public Health, Private Wells, Plumbing, Gas Piping and Onsite-Sewage Systems

** Utility Technical Review Committee (UTRC) - Water Service Appeal Procedures and Forms