STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
*Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000*
*711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341*

July 23, 2012

Mr. Alan Lee
Barker Pacific
626 Wilshire Blvd, #1150
Los Angeles, CA 90017

**Re: Further Action at the Following Site:**

- **Site Name:** Bayside Washington LLC (aka Lakeshore Village Apartments)
- **Site Address:** 9061 Seward Park Avenue South
- **Facility/Site No.:** 2285
- **VCP Project No.:** NW2570
-

Dear Mr. Lee:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Bayside Washington LLC facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

## Issue Presented and Opinion

Is further remedial action necessary to clean up contamination at the Site?

**YES. Ecology has determined that further remedial action is necessary to clean up contamination at the Site.**

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

## Description of the Site

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following releases:

- Heating Oil range Total Petroleum Hydrocarbon into the Soil and Ground Water.

**Enclosure A** includes a detailed description and diagram of the Site, as currently known to Ecology.

Please note a parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel(s) associated with this Site are affected by other sites.

## Basis for the Opinion

This opinion is based on the information contained in the following documents:

1. Sample and Analysis Plan, Lake Washington Apartments, Phase II Environmental Assessment, Seattle, WA. Prepared by Herrera. Dated December 2011.
2. Site Characterization Report, Lake Washington Apartments, Phase II Environmental Site Assessment, Seattle, WA. Prepared by Herrera. Dated May 10, 2012.
3. Periodic Review, Lakeshore Village Apartments, aka Lake Washington Apartments, Seward Park Estates. Washington Department of Ecology. Dated February 2010.

Those documents are kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. You can make an appointment by calling the NWRO resource contact at (425) 649-7235.

This opinion is void if any of the information contained in those documents is materially false or misleading.

## Analysis of the Cleanup

Ecology has concluded that **further remedial action** is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

1. **Characterization of the Site.**

   Ecology has determined your characterization of the Site is not sufficient to establish cleanup standards and select a cleanup action. The Site is described above and in **Enclosure A.**

   The Site consisted of 18 underground storage tanks (USTs) at nine locations at the property. The USTs held diesel heating oil and PS300 heating oil. During remediation in the late 1990s, the tanks were removed and contaminated soil was excavated around the tank locations. Some of the heating oil contaminated soil was left in place beneath

buildings. Soil samples collected from bottom and sidewall locations in the excavated pits show that heating oil concentrations were below current MTCA Method A cleanup levels at all UST locations except for samples near buildings 2, 5, and 35. A focused sampling study was performed at building 35 during March of 2012, to determine the extent of contamination remaining in soil and ground water at this Site. From this sampling campaign, one ground water sample was collected with a concentration of 1,200 ug/L, that exceeds the MTCA Method A cleanup levels (500 ug/L) for diesel range hydrocarbons.

During the 1990s characterization, three of five borings intercepted ground water at 12, 17, and 32 feet below ground surface. During March 2012 characterization, four borings intercepted ground water adjacent to building 35. Water levels were between 7 and 13 feet below ground surface.

The periodic review identified characterization of ground water as a key element missing from the site investigation. Ground water is reported in some deeper wells at variable depths. Further exploration for ground water at sites where soil concentrations were reported above MTCA Method A cleanup levels is necessary to define extent of contamination. If no ground water is found at these sites, then there is not path to down-gradient receptors. If ground water is encountered and contamination observed, then flow direction and lateral extent must be established. Candidate sites where soil concentration exceeds MTCA Method A cleanup levels include tank locations near buildings 2, 5, and 35.

Characterization of soils at the Site is believed to adequately define the horizontal and vertical extent of contamination. Contamination above Method A cleanup levels could remains in soil beneath buildings 2, 5, and 35. Therefore, the covenant and continued monitoring is still necessary at this Site.

**2. Establishment of cleanup standards.**

Ecology has determined the cleanup levels and points of compliance you established for the Site may not meet the substantive requirements of MTCA.

Cleanup levels at this Site have been established to conform to Method A. The Site can be excluded from further consideration from terrestrial ecological evaluation (TEE) since there is no contiguous undeveloped land within 500 feet of the Site.

Ground water has not been adequately defined to establish cleanup levels and points-of-compliance.

3. **Selection of cleanup action.**

   Ecology has determined the cleanup action you selected for the Site does not meet the substantive requirements of MTCA.

   Since ground water has not been fully characterized, selection of the cleanup action cannot be fully evaluated. Excavation and removal of contaminated soils at this Site is deemed protective of human health and environment for the soils.

4. **Cleanup.**

   Ecology has determined the cleanup you performed does not meet cleanup standards at the Site.

   Cleanup at this Site consists of excavation and removal of contaminated soils at underground storage tank locations to the former method A cleanup level of 200 ppm. Soils located beneath buildings at unknown contaminant levels were left in place and an environmental covenant and monitoring plan were enacted for the Site. Determination of further required cleanup is contingent upon characterization of ground water at this Site.

## Limitations of the Opinion

1. **Opinion does not settle liability with the state.**

   Liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion **does not**:

   - Resolve or alter a person's liability to the state.
   - Protect liable persons from contribution claims by third parties.

   To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70.105D.040(4).

2. **Opinion does not constitute a determination of substantial equivalence.**

   To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you performed is substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

3. **State is immune from liability.**

   The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70.105D.030(1)(i).

## Contact Information

Thank you for choosing to clean up the Site under the Voluntary Cleanup Program (VCP). After you have addressed our concerns, you may request another review of your cleanup. Please do not hesitate to request additional services as your cleanup progresses. We look forward to working with you.

For more information about the VCP and the cleanup process, please visit our website: www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm. If you have any questions about this opinion, please contact me by phone at (425) 649-7191or e-mail at eufr461@ecy.wa.gov.

Sincerely,

Eugene Freeman
Toxics Cleanup Program

Enclosure (1): A – Description and Diagrams of the Site

cc: Peter Jowise, Herrera Environmental Consultants
Sonia Fernandez, VCP Coordinator, Ecology

# Enclosure A

# Description and Diagrams of the Site

**Site Definition**
The Site consists of multi-family apartment complexes located near the southeast Lake Washington shoreline. Contaminant release at this Site consists of diesel and oil range total petroleum hydrocarbons (THPd and TPHo) from 18 heating oil, USTs at 9 locations. The USTs and contaminated soil has been excavated and removed from the 9 locations, but some residual TPHd and TPHo remains beneath buildings. The locations of the USTs are distributed throughout the property, shown as numbers 1 through 9 in Figure 1.

**Area/Property Description**
The property is located at the corner of South Henderson Street and Seward Park Avenue South. The address of the property is 9061 Seward Avenue South, Seattle and is defined as tax parcel # 3524049015. The area surrounding the apartments is commercial and residential. Rainier Beach High School is directly to the north of the property and the Parkshore Marina is to the east. Commercial businesses border the property on the west and south.

**Property History and Current Use**
The property has been the location of apartments that were built in 1948. In the late 1990s, the apartments were renovated and the heat oil tanks were removed. At the time of the renovations, the property entered into the VCP program. An NFA opinion was issued which was later rescinded subject to characterization of ground water at the Site.

**Contaminant Source and History**
Contamination at this Site consists of diesel- and oil-range total petroleum hydrocarbon. The source of contamination is from leaking USTs and pipes. Release of TPH to the soil was discovered during excavation of the tanks in the late 1990s. The tanks were excavated and the contaminated soil was removed from the Site. Some contaminated soil was left beneath buildings and consequently the Site is currently subject to a restrictive environmental covenant.

**Physiographic Setting**
The Site is part of the Lake Washington Trough physiographic province. The property is located on a flat area that slopes gently toward Lake Washington to the east. The hills of the Skyway Uplands rise within 400 feet to the south and west. The property is approximately 25 feet above mean sea level and the surface of Lake Washington is approximately 21 feet above mean sea level.

**Ecological Setting**
A Terrestrial Ecological Evaluation (TEE) has not been conducted at this Site. However, there is no contiguous undeveloped land within 500 feet of the property. Therefore, MTCA Method A cleanup levels are appropriate for this Site.

**Geology**
The geologic setting is sedimentary, with fill at the surface, with an organic peat layer beneath and then lacustrine clay beneath that. Beneath the clay is a thick, compact, dense glacial till layer. The Site is located in the Seattle Trough, bounded to the south and west by hills of the Skyway Uplands.

**Ground water**
Depth to ground water beneath the property varies between 7 to 32 feet. Conceptually, ground water exists as isolated lenses in more permeable material distributed in a denser material. It is not known whether there is a coherent ground water surface at this Site, nor whether ground water interacts with Lake Washington.

**Surface Water**
Lake Washington is located down slope, approximately 200 feet to the east of the property.

**Release and Extent of Contamination – Soil**
Diesel- and oil-range heating oil was released to soils from 18 tanks at 9 locations within this property between 1948 and 1997. During renovation of this Site in the late 1990s, the heating oil USTs were excavated and the contaminated soils were removed. Some residual heating oil remains where it migrated beneath buildings.

**Extent of Contamination – Groundwater**
Conceptually, ground water at this Site is located in isolated, high permeability lenses within a low permeability material. Further characterization of the ground water at this Site is necessary to better define spatial continuity and extent.

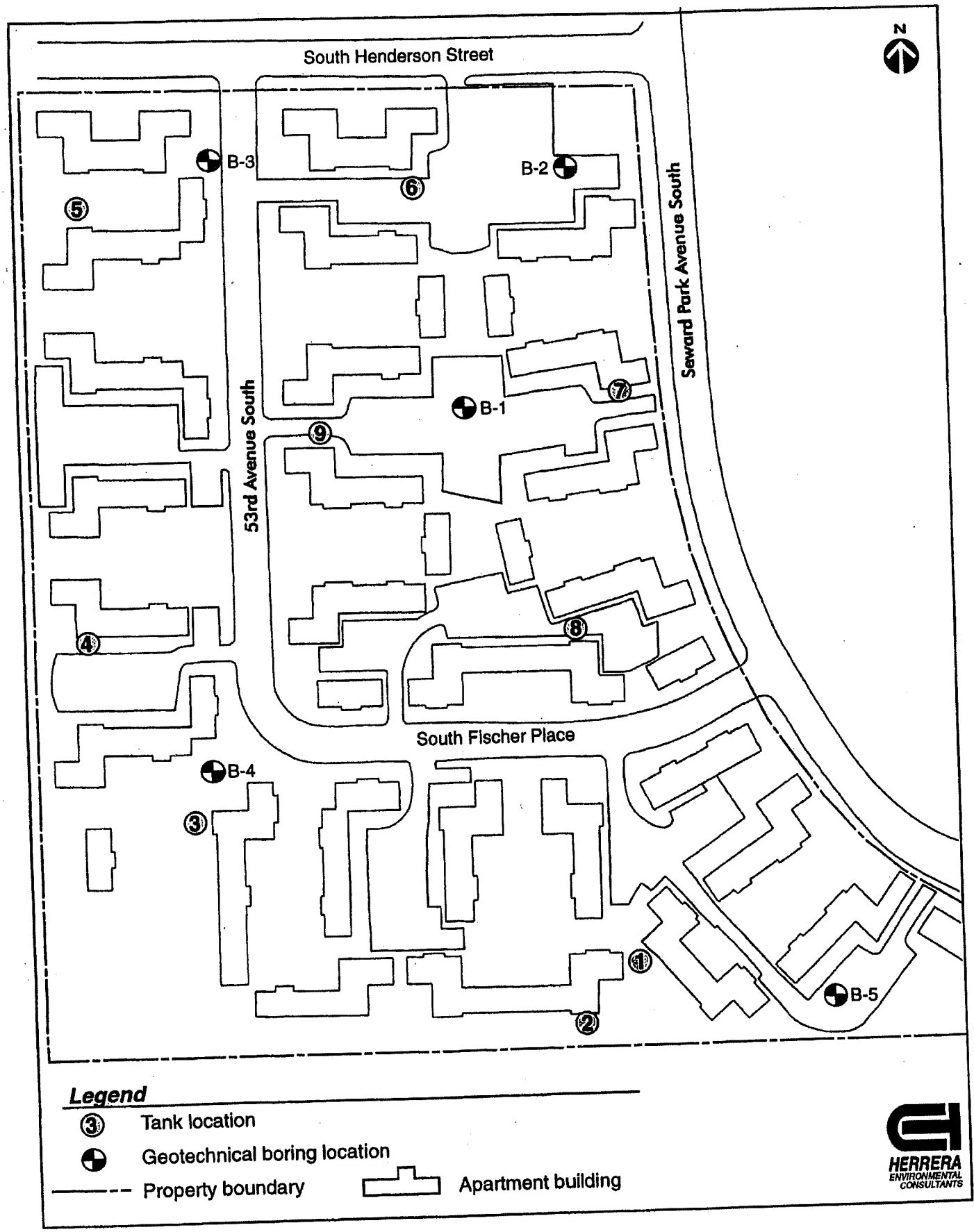
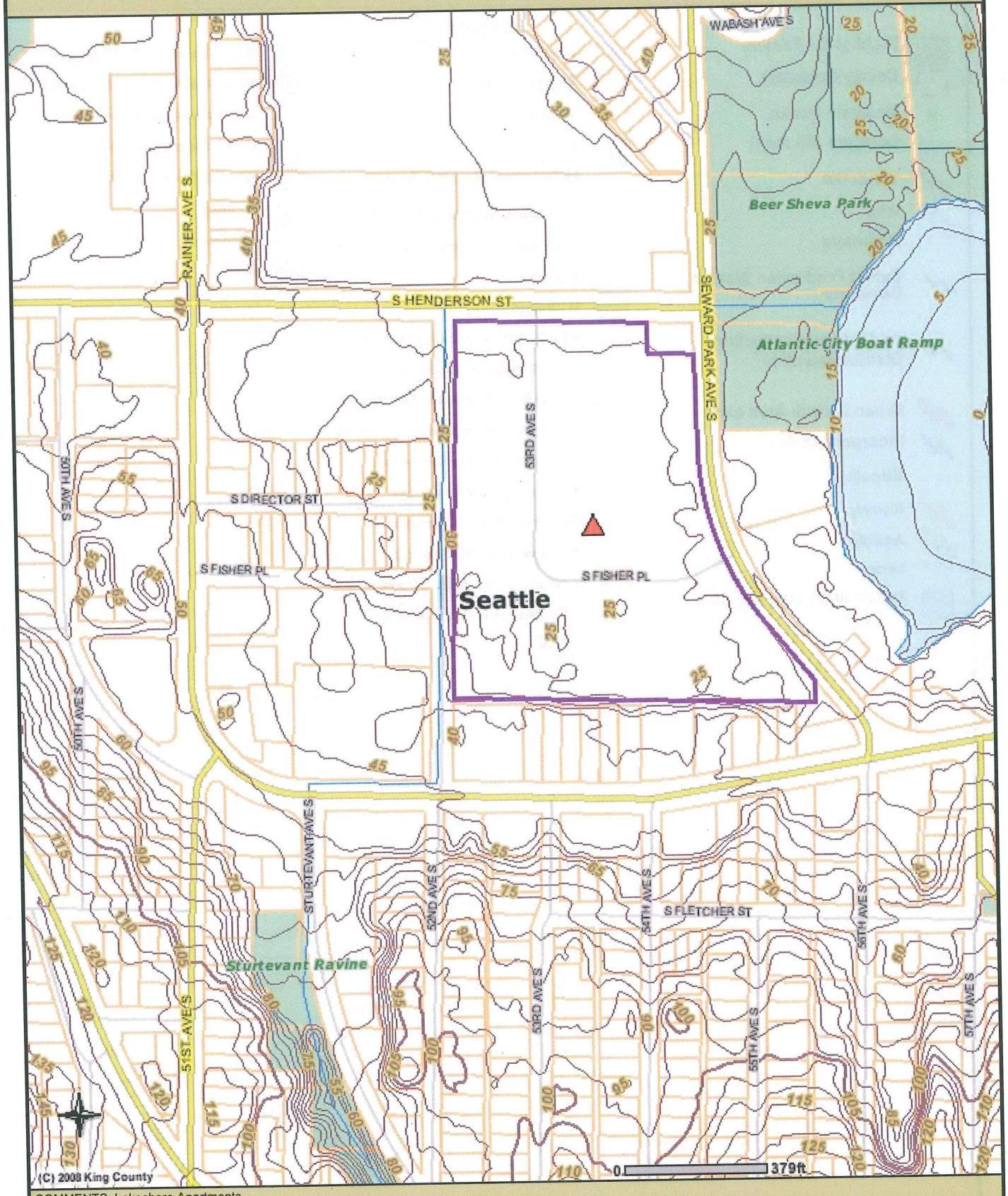



**Figure 2. Lake Washington Apartments site map.**

# iMAP




COMMENTS: Lakeshore Apartments



Date: 6/7/2012 Source: King County iMAP - Property Information (http://www.metrokc.gov/GIS/iMAP)

King County

# iMAP

## Legend


Highlighted Feature


County Boundary


Mountain Peaks

Contours (5ft dark)


100;500;1000


Other

Highways


Forest Production District Boundary


Agricultural Production District Boundary


Urban Growth Area Line


Incorporated Area

Streets


Highway


Arterials


Local


Lakes and Large Rivers


Streams


Tribal Lands


Parcels


Parks

Unincorporated KC Zoning


A-10 - Agricultural, one DU per 10 acres


A-35 - Agricultural, one DU per 35 acres


F - Forest


M - Mineral


RA-2.5 - Rural Area, one DU per 5 acres


RA-5 - Rural Area, one DU per 5 acres


RA-10 - Rural Area, one DU per 10 acres


UR - Urban Reserve, one DU per 5 acres


R-1 - Residential, one DU per acre


R-4 - Residential, 4 DU per acre


R-6 - Residential, 6 DU per acre


R-8 - Residential, 8 DU per acre


R-12 - Residential, 12 DU per acre


R-18 - Residential, 18 DU per acre

(cont)


R-24 - Residential, 24 DU per acre


R-48 - Residential, 48 DU per acre


NB - Neighborhood Business


CB - Community Business


RB - Regional Business


O - Office


I - Industrial


Other



Date: 6/7/2012 Source: King County iMAP - Property Information (http://www.metrokc.gov/GIS/iMAP)

King County