

**DATE:** October 23, 2019**FILE:** 3090-20/DV 11B 19**TO:** Chair and Directors  
Electoral Areas Services Committee**FROM:** Russell Dyson  
Chief Administrative OfficerSupported by Russell Dyson  
Chief Administrative Officer*R. Dyson***RE: Development Variance Permit  
1671, 1673 and 1675 Ryan Road East  
(Lenco Development Ltd., Fernco Development Ltd., and Norco  
Development Ltd.)  
Lot 1, District Lot 114, Comox District, Plan 2280, PID 006-412-335****Purpose**

To consider a Development Variance Permit (DVP) (Appendix A) to increase the maximum height of a fence to 3.1 metres.

**Recommendation from the Chief Administrative Officer:**

THAT the board approve the Development Variance Permit DV 11B 19 (Lenco Development Ltd., Fernco Development Ltd., and Norco Development Ltd.) to increase the maximum height of a fence to 3.1 metres on property described as Lot 1, District Lot 114, Comox District, Plan 2280, PID 006-412-335 (1671, 1673 and 1675 Ryan Road East);

AND THAT the Corporate Legislative Officer be authorized to execute the permit.

**Executive Summary**

- The subject property is located at 1671, 1673 and 1675 Ryan Road East, and is approximately 3.9 hectares in area. The property is zoned Industrial Light (IL).
- The property has two industrial buildings fronting onto Ryan Road East. There are three mini-storage buildings in the middle of the lot. The applicant is currently building two mini-storage buildings under the Industrial Development Permit approved in 2018.
- For site security and customer safety, the applicant would like to install a fence on top of lock blocks along the southeastern and southern sides of the lot, and on top of the natural grade along the southwestern side of the lot. The proposed fence has a 3 metre setback from the lot lines due to the natural vegetation buffer for screening.
- Due to difference in natural grade, part of the proposed fence is 3.1 metres in height. The maximum fence height in the Zoning Bylaw is 3.0 metres, as measured from the natural grade to the highest feature of the fence.
- Purposes of maximum fence height regulations are to provide screening and privacy between neighbours while avoiding excessive shadows onto adjacent lots.
- The vegetation buffer, with trees and evergreens, will provide much of the screening and privacy between neighbours, and the 3 metre setback of the proposed fence will likely reduce the impact of shadowing from the additional height.
- As the proposed fence will be behind 3 metres of vegetation, which will provide much of the privacy and screening, staff recommend that the DVP be approved.

Prepared by:

Concurrence:

Concurrence:

***B. Chow******T. Trieu******S. Smith***Brian Chow, RPP, MCIP  
Rural PlannerTon Trieu, RPP, MCIP  
Manager of Planning ServicesScott Smith, RPP, MCIP  
General Manager of Planning and  
Development Services Branch**Stakeholder Distribution (Upon Agenda Publication)**

Applicant	✓
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**Background/Current Situation**

The subject property, located at 1671, 1673 and 1675 Ryan Road East, is approximately 3.9 hectares in area (Figures 1 and 2). The property is bound by Ryan Road East to the north, residential lots to the east and southwest, and commercial property to the northwest.

The property currently has two industrial buildings fronting onto Ryan Road East (Figure 3). There are three mini-storage buildings in the middle of the lot. The applicant is in the process of building two additional mini-storage buildings under the Industrial Development Permit (DP 17B 18). The applicant would like to install a fence on top of lock blocks along the southeastern and southern sides of the lot, and on the natural grade along the southwestern side of the lot (Figures 3 and 4). The fence is to provide security to the mini-storage buildings and safety of the users. Due to the sloping property, the applicant would like to apply for a variance to increase the maximum permitted fence height from 3.0 metres to 3.1 metres (Figures 5 to 7).

Official Community Plan Analysis

Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (OCP) designates the subject property within the Settlement Expansion Areas (SEAs). The proposed fence does not conflict with any industrial or SEA policies in the OCP.

The OCP contains development permit area guidelines. Although the property is zoned Industrial Light (IL), an Industrial Development Permit is not required for the proposed fence, as the trigger for this development permit is new buildings or changes to existing buildings. The proposal requires an Aquatic and Riparian Habitat Development Permit, as there will be land alteration within 30 metres of a watercourse. The consideration of this development permit will be addressed in a separate application, pending to the outcome of this DVP application.

Zoning Bylaw Analysis

Bylaw No. 520 being the “Rural Comox Valley Zoning Bylaw, No. 520, 2019”, zones the property to IL. Section 310(5) of the Zoning Bylaw states that the maximum height of fences in zones regulated by Part 900, Commercial, Industrial and Institutional Zones is 3.0 metres. The height of a fence is measured from the natural grade to the highest feature of the fence. Further, if the fence is on top of a retaining wall or berm, the height of the fence includes the height of the retaining wall or berm.

As mentioned earlier, the applicant would like to have a fence of up to 3.1 metres. According to the applicant, the eastern side of the property is lower (Appendix B). Lock blocks and fill are required to elevate the eastern side of the property by as much as 2 metres to accommodate the rainwater management system. Further, to provide site security and safety, a fence is proposed to be erected on top of the lock blocks along the southeastern and southern lot lines (Figures 5 and 6). Along the southwestern lot lines, the proposed fence is on top of the natural grade (Figure 7). Overall, the

maximum height of the fence from the lowest natural grade of the site is proposed to be 3.1 metres. In summary, the variance request is as follows:

<b>Zoning Bylaw No. 520</b>	<b>Zoning Bylaw Regulations</b>	<b>Required</b>	<b>Proposed</b>	<b>Difference</b>
Section 310(5)	Maximum height of fences	3.0 metres	3.1 metres	0.1 metres

The purpose of a maximum fence height regulation are to offer a balance of providing screening and privacy between neighbours while avoiding excessive shadows onto adjacent lots and maintaining the form and character of the neighbourhood.

Firstly, the proposed chain link fence was addressed in the Industrial Development Permit (DP 17B 18) issued last year. This proposed fence is behind a 3 metre wide vegetation buffer, which provides visual screening and noise buffer for adjacent owners. Existing trees and vegetation will remain and will be supplemented by additional 10 Maple and 69 Cedar trees. With respect to the shadowing impact, the vegetated buffer will provide much of the shading on the adjacent lots, and the proposed chain link fence, setting back at 3 metres from all lot lines, would have reduced shadow impacts. Finally, the proposed chain link fence is in keeping in the light industrial form and character of the Ryan Road East corridor. Given these factors, staff recommend the approval of the DVP to permit a fence at 3.1 metres in height.

### **Policy Analysis**

Section 498 of the *Local Government Act* (RSBC, 2015, c.1) (LGA) authorizes a local government to consider issuance of a DVP that varies the provision of a bylaw, provided that the use or density of the land is not being varied, the land is not designated floodplain, or the development is not part of a phased development agreement.

### **Options**

The board could either approve or deny the requested variance. Based on the analysis above, staff recommends to approve the variance.

### **Financial Factors**

Applicable fees have been collected for this application under the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014.”

### **Legal Factors**

The report and recommendations contained herein are in compliance with the LGA and the Comox Valley Regional District (CVRD) bylaws. DVPs are permitted in certain circumstances under Section 498 of the LGA.

### **Regional Growth Strategy Implications**

Bylaw No. 120, being “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” (RGS) designates the subject property within SEAs. The proposed fence does not conflict with any industrial or SEA policies in the RGS.

### **Intergovernmental Factors**

There are no intergovernmental factors with this DVP application.

### **Interdepartmental Involvement**

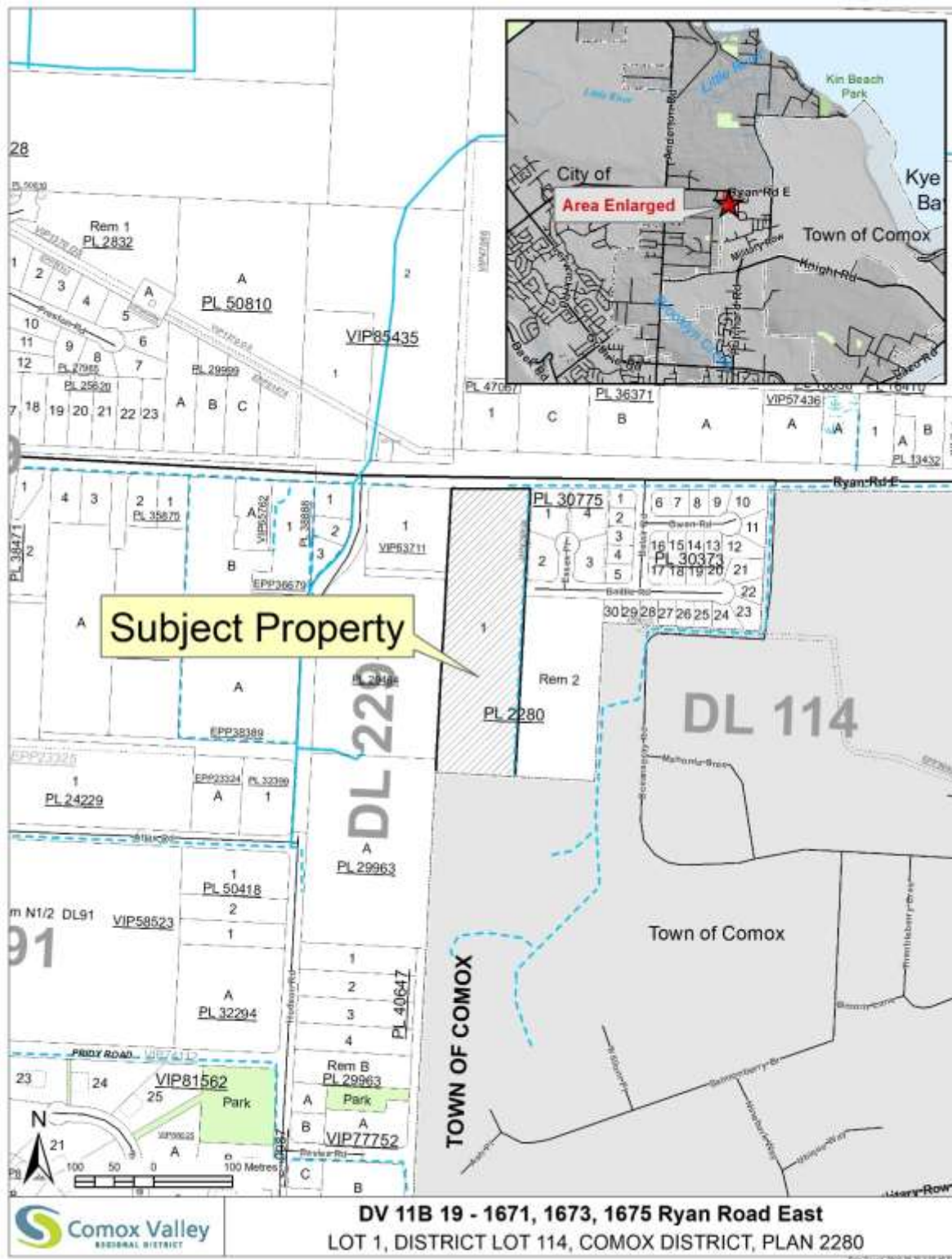
This DVP application was referred to internal departments. No comments or concerns were received.

**Citizen/Public Relations**

The Advisory Planning Commission met on October 15, 2019, to review this application. The Commission supported the variance request because due to the slope, there is no other reasonable option. This would be a reasonable request for security purposes.

Notice of the requested variance was mailed to adjacent property owners within 100 metres of the subject property at least 10 days prior to the Electoral Areas Services Committee (EASC) meeting. The notice informs these property owners/tenants as to the purpose of the permit, the land that is the subject of the permit and that further information of the proposed permit is available at the CVRD office. It also provides the date and time of the EASC meeting where the permit will be considered. Consultation with these property owners/tenants is through their written comments received prior to the EASC meeting or their attendance at the EASC meeting.

Attachments: Appendix A – “Development Variance Permit – DV 11B 19”  
Appendix B – “Written Submission from the Applicant”



### Figure 1: Subject Property Map





Figure 2: Air Photo

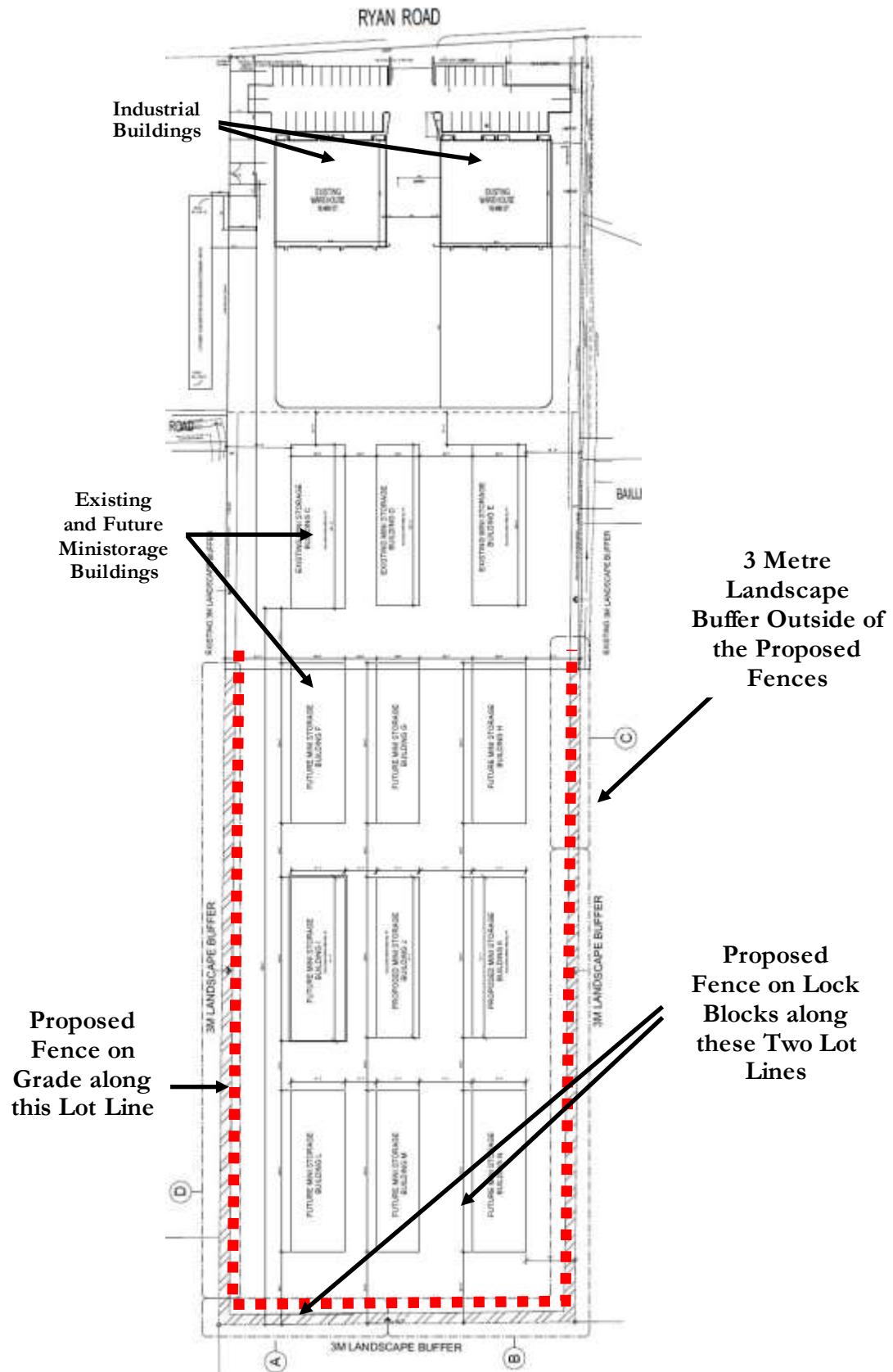
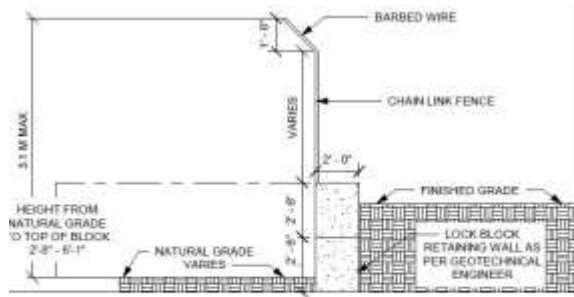
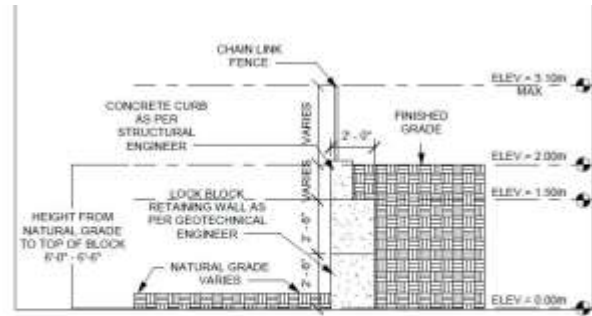
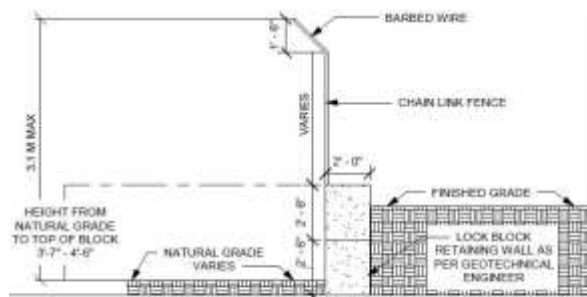
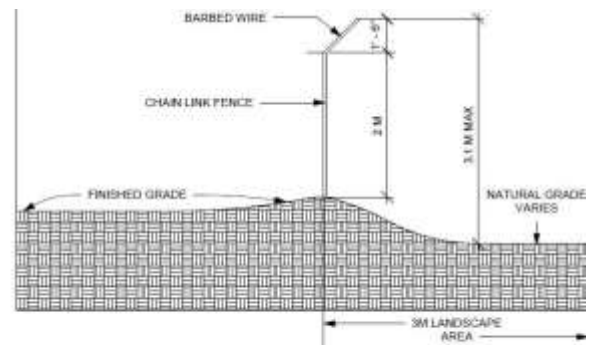


Figure 3: Site Plan

**DETAIL - A****DETAIL - B****DETAIL - C****DETAIL - D****Figure 4: Proposed Fence Profiles**

**Figure 5: View of the Southeastern Lot Line  
Lock Blocks in Order to Have a Level Lot (Part of “Detail – C”)**





**Figure 6: Southern Lot Line**  
(Part of “Detail – A” and “Detail – B”)



**Figure 7: Southwestern Lot Line**  
(Part of “Detail – D”)

**DV 11B 19****TO: Lenco Development Ltd., Fernco Development Ltd., and Norco Development Ltd.**

1. This Development Variance Permit (DV 11B 19) is issued subject to compliance with all of the bylaws of the Comox Valley Regional District applicable thereto, except as specifically varied or supplemented by this permit.
2. This Development Variance Permit applies to and only to those lands within the Comox Valley Regional District described below:  
**Legal Description:** Lot 1, District Lot 114, Comox District, Plan 2280  
**Parcel Identifier (PID):** 006-412-335 **Folio:** 771 01968.000  
**Civic Address:** 1671, 1673 and 1675 Ryan Road East
3. The land described herein shall be developed in accordance with the following term and provision of this permit:
  - i. THAT the development shall be carried out according to the plans and specifications attached hereto which form a part of this permit as the attached Schedules A and B.
5. This Development Variance Permit (DV 11B 19) shall lapse if development is not substantially commenced within two (2) years of the Comox Valley Regional District Board's resolution regarding issuance of the Development Variance Permit (see below). Lapsed permits cannot be renewed; therefore application for a new Development Variance Permit must be made, and permit granted by the Comox Valley Regional District Board, in order to proceed.
6. This Development Variance Permit is **not** a Building Permit.

CERTIFIED as the **DEVELOPMENT VARIANCE PERMIT** issued by resolution of the board of the Comox Valley Regional District on \_\_\_\_\_.

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James Warren  
Corporate Legislative Officer

Certified on \_\_\_\_\_

Attachments: Schedule A – “Resolution”  
Schedule B – “Subject Property and Site Plan”

## Schedule A

File: DV 11B 19

**Applicants:** Lenco Development Ltd., Fernco Development Ltd., and Norco Development Ltd.

**Legal Description:** Lot 1, District Lot 114, Comox District, Plan 2280, PID 006-412-335

### Specifications:

THAT WHEREAS pursuant to Section 310(5) of Bylaw No. 520 being the “Rural Comox Valley Zoning Bylaw, No. 520, 2019,” the maximum height of fences in zones regulated by Part 900, Commercial, Industrial and Institutional Zones is 3.0 metres;

AND WHEREAS the applicants, Lenco Development Ltd., Fernco Development Ltd., and Norco Development Ltd., wish to install a fence of up to 3.1 metres as shown on Schedule B;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on \_\_\_\_\_, the provision of Bylaw No. 520 being the “Rural Comox Valley Zoning Bylaw, No. 520, 2019,” as they apply to the above-noted property is to be varied as illustrated in Schedule B and as follows:

310(5) “The maximum height of the fence as shown on Schedule B is 3.1 metres.”

I HEREBY CERTIFY this copy to be a true and correct copy of Schedule A being the terms and conditions of Development Variance Permit File DV 11B 19.

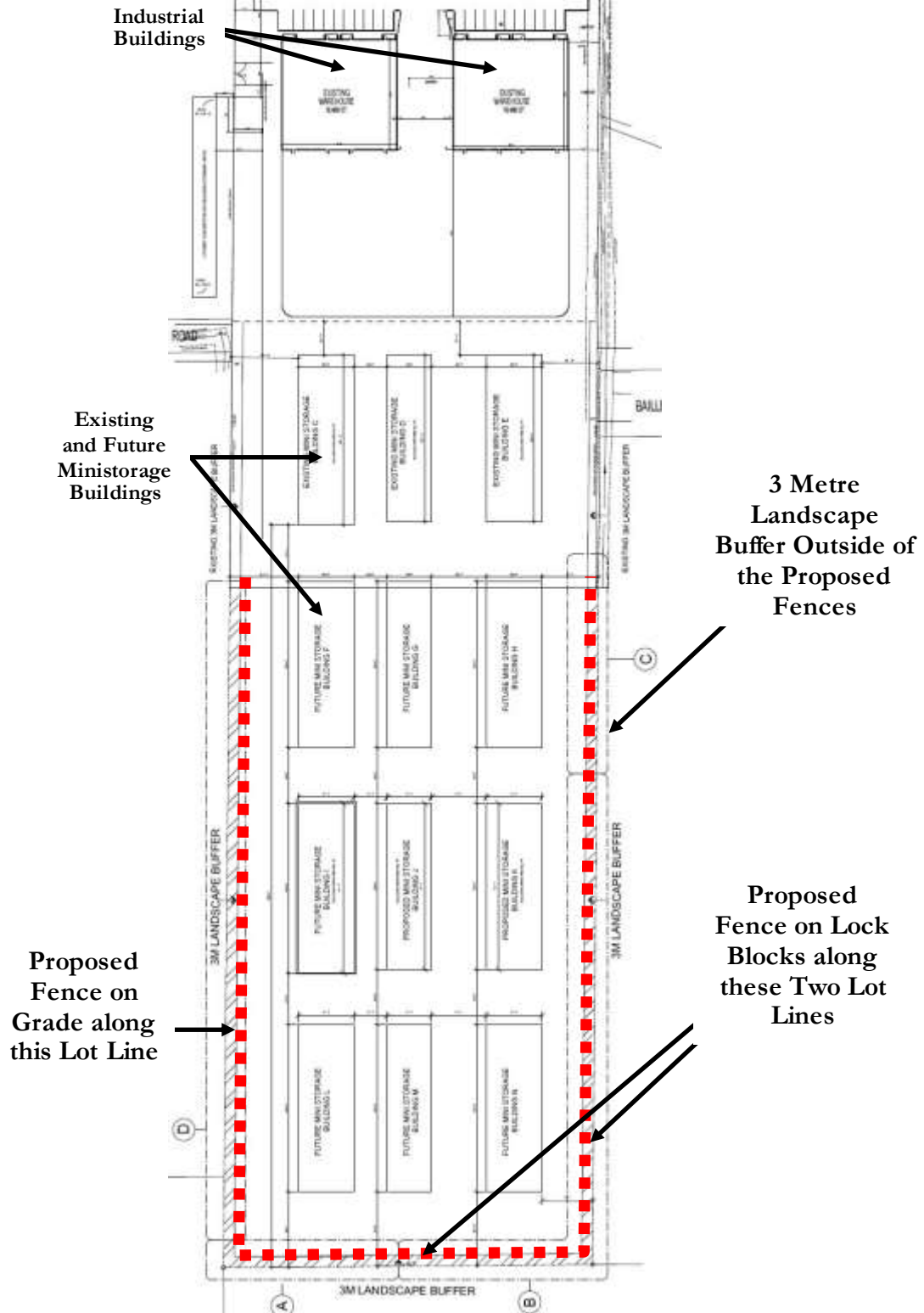
\_\_\_\_\_  
James Warren  
Corporate Legislative Officer

Certified on \_\_\_\_\_





# Site Plan



Comox Valley Regional District

RECEIVED

File: 3090-20/DV 11B 19

SEP 05 2019

To:

cc:

Noort Investments  
2399 Cienar Dr  
Nanaimo, BC V9T 3L6

August 23, 2019

To: Planning Department, CVRD

Re: Requested variance permit at 1671 Ryan Rd.

Noort Investments requests a development variance to in order to increase the height of the fence at 1671 Ryan Rd. We propose a height variance of 3.1m to ensure the safety and security of our site.

Due to the grade of the existing property and the location of the ditch, the finished grade on the east side of the property was required to be brought up to accommodate the Storm Water Management System as designed by McElhanney Engineering. The site sloped significantly lower from the west side to the east side of the property. The grade at the west side of the property was generally close to natural grade however the grade on the East side of the property was required to be raised by as much as 2m in order to create a level lot and more importantly allow for the grades of the infiltration gallery and storm water retention.

Because of the site grading plan and the height of the retaining wall at certain areas we propose a variance to accommodate installing a chain link fence on top of the retaining wall for site security and for safety considerations as we do not want the wall to be a fall hazard to our customers. The max height of the chain link fence will be 3.10M from natural grade. This height allows us a minimum 42" high fence on top of the retaining wall to act as a fall guard for customers on site; 42" is what the BC Building code requires. Although there is no retaining wall on the west side of the property we do request the variance for the side as well in order to allow for a 2m fence, plus barbed wire from the finished grade.

Please note the height variance we are requesting is measured from the lowest natural grade on site, the majority of the fencing will be below 3m in height from natural grade.

The property to the east and west of the proposed fence variances is zoned country residential one while the property to the south is the Town of Comox. The area between the fence and the neighboring property has a three meter landscape area with existing vegetation (see attached pictures) and 79 additional trees to be planted as per the landscape plan by PMG Landscape Architects.