

ADDRESS: 406 N PINE ST
LEGAL DESCRIPTION: NCB 1373 BLK 1 LOT 8
ZONING: RM-4
CITY COUNCIL DIST.: 2
DISTRICT: Dignowity Hill Historic District
APPLICANT: Aurora Morales-Lopez
OWNER: Aurora Morales-Lopez
TYPE OF WORK: Install a new transparent fence around the vacant lot
REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to install a 6-feet tall by 180-feet long cattle fence on the property line with two (2) gates. The front fence will be 25-feet back from the property line and will be temporary. The fence will be framed with lumber.

APPLICABLE CITATIONS:

Unified Development Code Article V – Development Standards.

Division 3. – LANDSCAPING AND TREE PRESERVATION. Sec. 35-514. - Fences.

(a) General.

(1) No fence may be constructed, repaired, or expanded within the city limits without first obtaining a building permit for such work, with the exception of any fence work specifically exempted by chapter 10, subsection 10-6(e) of the City Code.

(2) Fence Clear Vision Area.

a. Street Intersections on Residential Corner Lots. No fence exceeding three (3) feet in height within the city or ETJ shall be erected, constructed, or built on a corner lot within the area formed by measuring twenty-five (25) feet in each direction from the street curb.

b. Driveway, Accessway, or Alley Intersections on Residential Lots. No fence exceeding three (3) feet in height within the city or ETJ shall be erected, constructed, or built within a triangle formed by measuring fifteen (15) feet in each direction from the point where a driveway, accessway, or alley intersects with the street curb.

c. Administrative Exception. Subsections a. and b. above notwithstanding, where it can be demonstrated that a lesser fence clear vision area would be required utilizing the standards of subsection 35-506(d)(5) intersection sight distance, an administrative exception may be granted to allow a lesser fence clear vision area than otherwise would be required for a similarly situated property.

d. Variances. Variances to this section may be permissible in accordance with section 35-482.

e. Review. All fence clear vision areas are subject to review by the development services department.

(3) Freestanding walls, not an integral load bearing portion of a structure, whether constructed of masonry or wood framing, shall be considered fencing. Walls connected to a building and designed as a visual and noise barrier between a loading dock or similar use and a residential use, shall not be considered fencing and may extend to a height of sixteen (16) feet and a distance of fifty-five (55) feet from the building. Walls to be constructed in excess of eight (8) feet in height shall require certification by a licensed engineer that the foundation and support structure are designed to sustain wind loads in accordance with the International Building Code.

(4) All solid screen fences allowed to be constructed in excess of eight (8) feet in height shall require certification by a licensed engineer that the foundation and support structure are designed to sustain wind loads in accordance with the International Building Code.

(5) If the subject property is within a historic district, corridor overlay or a neighborhood conservation district the historic preservation officer (or their designee) or the director of development services (or their designee) shall make a finding of compliance and compatibility with the provisions of the historic, corridor and/or neighborhood conservation district prior to issuance of a building permit for any fence.

(6) All fences shall be constructed of wood, chain link, stone, rock, concrete block, pre-cast concrete panels, masonry brick, brick, decorative wrought iron or other material(s) which are similar in durability. The following materials shall not be used for fencing:

a. Cast-off, secondhand, or other items not originally intended to be used for constructing or maintaining a fence.

b. Plywood less than five-eighths (5/8) inch thick, plywood not of a grade approved by the development services director, particle board, paper, and visqueen plastic, plastic tarp, or similar material.

c. Barbed wire, razor wire, and other similar fencing materials capable of inflicting significant physical injury; provided,

however, that barbed wire may be permitted by right within a governmental facility and through an administrative exception of the development services director for private nonresidential facilities where all of the following findings of fact are made:

1. The barbed wire, where proposed to be located, will not be capable of inflicting significant physical injury to the general public,
2. The fence proposed with barbed wire is located behind a minimum setback line except where surrounded by established industrial uses,
3. The barbed wire is demonstrated by the applicant as a requirement for facility operations and for secured areas within the facility,
4. The barbed wire conforms with the requirements of section 6-2 of the building code.

d. Sheet, roll or corrugated metal.

(7) Variances to this section shall be in accordance with section 35-482.

(8) Retaining walls shall not be considered a fence however shall conform to the following requirements:

- a. Retaining walls on private property shall be in conformance with the International Building Code.
- b. Retaining walls along or within public rights-of-way shall be in conformance with the International Building Code, article IX of chapter 6 of the City Code and where greater than three (3) feet in height shall include plans designed, signed and sealed by a licensed engineer.
- c. Where a barrier is required by the International Building Code to be located on the top of a retaining wall, such barrier shall not be considered a fence.

(9) Fences used to display a message shall comply with chapter 28, "Signs and Billboards."

(b) Fencing Alternatives.

(1) Sport Court Fencing. Fencing, screening and/or back stops for sport courts such as basketball, tennis, batters cages, etc. shall be constructed only in the side or rear yard and shall be located no closer than five (5) feet to a side or rear property line of an adjacent single-family use or residential zoning district and/or a public or private street. The maximum height for sport court fencing shall be limited to twelve (12) feet in height.

(2) Large Lot Fencing. Predominantly open fencing at a maximum height of six (6) feet may be permitted in the front yard of any residential lot with at least twenty thousand (20,000) square feet in area by right and on all other residential lots regardless of lot size by special exception pursuant to section 35-399.04. Where permitted by right each of the following conditions must be met to construct a six-foot predominantly open fence in the front yard:

- A. The primary building meets the minimum required building setback for the district in which it is located; and
- B. The lot has at least one hundred (100) feet of street frontage.

(3) Fencing of Vacant Lots or Parking Lots. A predominantly open fence not exceeding a height of six (6) feet may be constructed on a vacant lot or parking lot. However, at such time that a house or structure is constructed on the lot, that portion of the fence constructed in the front yard shall be removed or reduced in height to a maximum of three (3) feet in height for a solid fence and four (4) feet in height for a predominantly open fence unless said lot and fence meet the criteria to allow a higher fence as outlined in this chapter.

(4) Combined Fence. As defined in section 35-A101 "Fence (combined)" may be permitted in the front yard up to the height allowed for a predominantly open fence provided that the solid portion shall not exceed three (3) feet in height.

(5) Planned Development. A planned unit development (PUD) district may designate side and rear yard fence heights up to eight feet in height through a PUD plan adopted by the planning commission pursuant to section 35-413

(c) Height Limitation.

(1) Except for the provisions in section (b) above no fence shall exceed the following table of heights. In addition, the maximum permitted fence height shall not exceed that of the maximum permitted fence height for the abutting property except as provided in subsection (c)(2). The board of adjustment may allow fences of greater height by special exception, subject to section 35-399.04 of this chapter or by variance subject to Section 35-482 if the height of the fence exceeds that height allowances for a special exception. The height shall be the vertical distance measured from the lowest adjacent ground level (either inside or outside the fence) to the top of the tallest element of the fence material, excluding decorative features affixed to the top of any column, pillar or post. The height of any existing retaining walls, either an integral part of a fence or upon which a fence may be erected, shall be calculated in the height of the fence, except in the following instances:

- A. The retaining wall is necessary for structural soundness/integrity of building construction on the lot; or
- B. The retaining wall is abutting a drainage easement or drainage infrastructure.

Historic Design Guidelines, Chapter 5, Guidelines for Site Elements

1. Topography

A. TOPOGRAPHIC FEATURES

- i. *Historic topography*—Avoid significantly altering the topography of a property (i.e., extensive grading). Do not alter character-defining features such as berms or sloped front lawns that help define the character of the public right-of-way. Maintain the established lawn to help prevent erosion. If turf is replaced over time, new plant materials in these areas should be low-growing and suitable for the prevention of erosion.
- ii. *New construction*—Match the historic topography of adjacent lots prevalent along the block face for new construction. Do not excavate raised lots to accommodate additional building height or an additional story for new construction.
- iii. *New elements*—Minimize changes in topography resulting from new elements, like driveways and walkways, through appropriate siting and design. New site elements should work with, rather than change, character-defining topography when possible.

2. Fences and Walls

A. HISTORIC FENCES AND WALLS

- i. *Preserve*—Retain historic fences and walls.
- ii. *Repair and replacement*—Replace only deteriorated sections that are beyond repair. Match replacement materials (including mortar) to the color, texture, size, profile, and finish of the original.
- iii. *Application of paint and cementitious coatings*—Do not paint historic masonry walls or cover them with stone facing or stucco or other cementitious coatings.

B. NEW FENCES AND WALLS

- i. *Design*—New fences and walls should appear similar to those used historically within the district in terms of their scale, transparency, and character. Design of fence should respond to the design and materials of the house or main structure.
- ii. *Location*—Avoid installing a fence or wall in a location where one did not historically exist, particularly within the front yard. The appropriateness of a front yard fence or wall is dependent on conditions within a specific historic district. New front yard fences or wall should not be introduced within historic districts that have not historically had them.
- iii. *Height*—Limit the height of new fences and walls within the front yard to a maximum of four feet. The appropriateness of a front yard fence is dependent on conditions within a specific historic district. New front yard fences should not be introduced within historic districts that have not historically had them. If a taller fence or wall existed historically, additional height may be considered. The height of a new retaining wall should not exceed the height of the slope it retains.
- iv. *Prohibited materials*—Do not use exposed concrete masonry units (CMU), Keystone or similar interlocking retaining wall systems, concrete block, vinyl fencing, or chain link fencing.
- v. *Appropriate materials*—Construct new fences or walls of materials similar to fence materials historically used in the district. Select materials that are similar in scale, texture, color, and form as those historically used in the district, and that are compatible with the main structure. Screening incompatible uses—Review alternative fence heights and materials for appropriateness where residential properties are adjacent to commercial or other potentially incompatible uses.

C. PRIVACY FENCES AND WALLS

- i. *Relationship to front facade*—Set privacy fences back from the front façade of the building, rather than aligning them with the front façade of the structure to reduce their visual prominence.
- ii. *Location* – Do not use privacy fences in front yards.

FINDINGS:

- a. 406 N Pine St is a vacant lot with grass and a few trees. The lot is surrounded by one and two story single family homes that are contributing to the Dignowity Hill Historic District. The applicant has proposed to install a 6 foot by 180 foot cattle fence on the property lines with two gates. The front fence will be set back from the front property line by 25 feet and will be temporary. The fence will be framed with treated lumber and measure 6 feet in height.
- b. FENCE LOCATION AND HEIGHT - According to UDC Sec. 35-514 (b)(3), a predominantly open fence not exceeding a height of six feet may be constructed on a vacant lot until a house or structure is constructed on the lot, at which the front portion must be removed or reduced in height. However, within the historic district, the location of a perimeter is not consistent with the development pattern of the district and is not appropriate.
- c. FENCE MATERIAL – UDC Sec. 35-514 (a)(5) states that if the property is located within a historic district, the Historic Preservation Officer or designee will ensure compliance and compatibility with the provisions of the district. The Historic Design Guidelines for Site Elements state that new fences should appear similar to those used historically within the district in terms of their scale, transparency, and character. Fences with wood posts have been used in historic districts, though are not common in Dignowity Hill, and there is no precedent for cattle

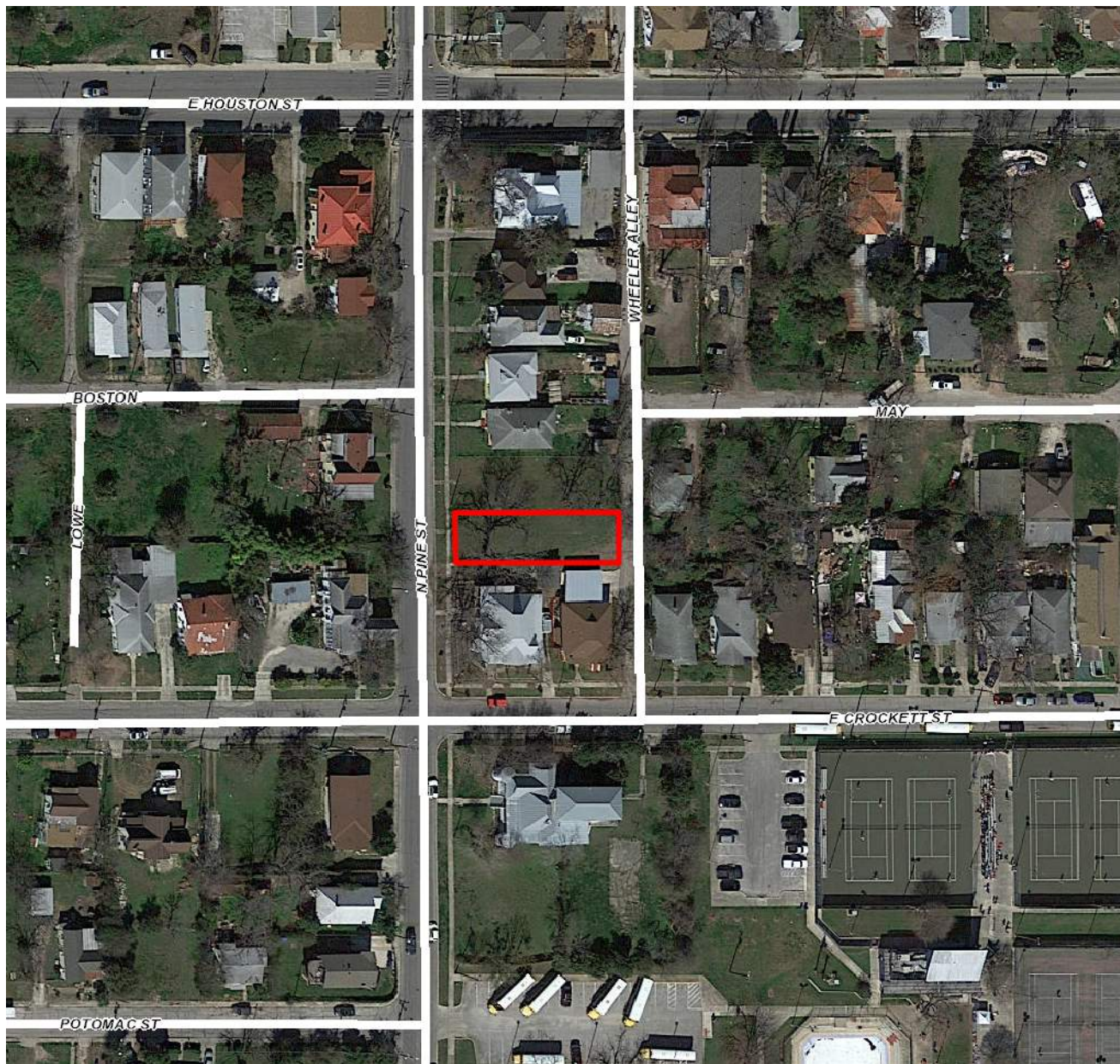
fencing in urban historic districts. Staff does not find the proposal consistent with the Historic Design Guidelines.

RECOMMENDATION:

Staff does not recommend approval based on findings a through c.

CASE MANAGER:

Stephanie Phillips



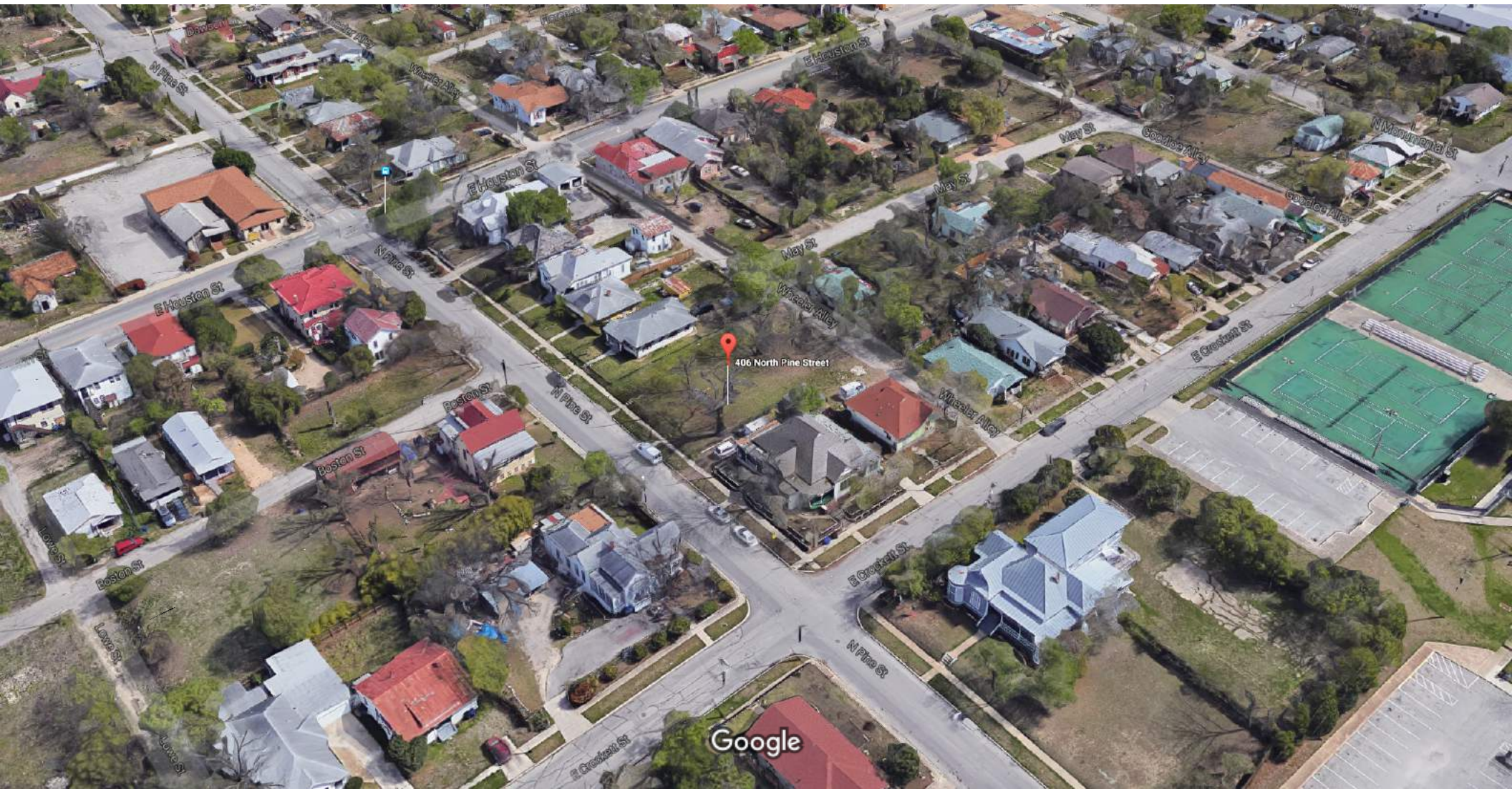
Flex Viewer

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**PLOT PLAN
FOR BUILDING PERMITS**

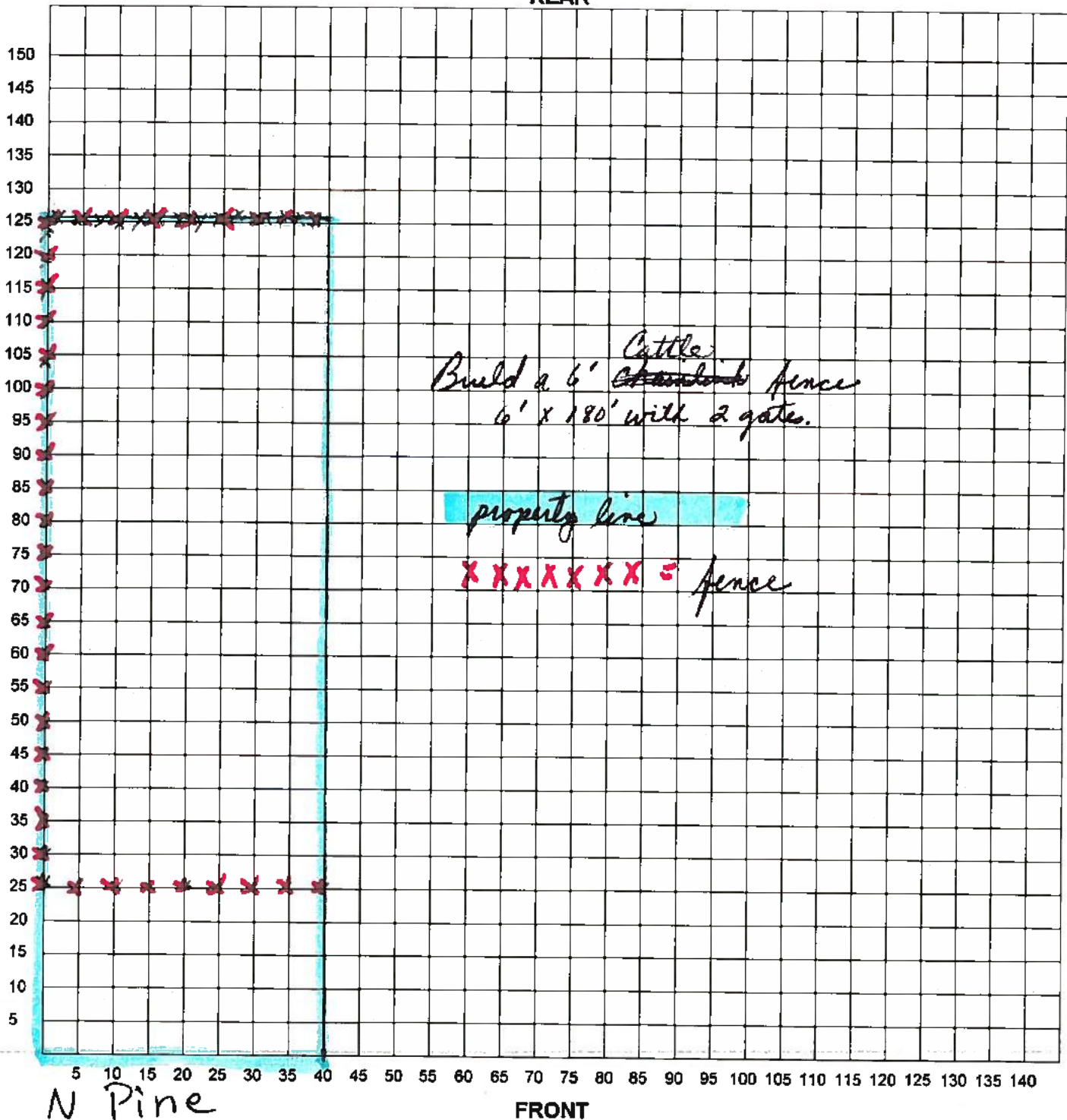
Address: 406 N PINE ST

Lot: _____

Block: _____

NCB: _____

REAR



I certify that the above plot plan shows all improvements on this property and that there will be no construction over easements. I also certify that I will build in compliance with the UDC and the 2015 IRC.

Date: 3/31/17

Signature of Applicant: Aurora B. Morales-Lopez

