

**COMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT,
FEDERAL AND FOREIGN AFFAIRS
TWENTY-FIRST QUAM LEGISLATURE
163 Chalan Santo Papa
Agaña, Guam 96910**

Senator Francisco R. Santos
Chairman

Tel: (671) 472-3414/3415
Fax: (671) 477-3048

August 26, 1991

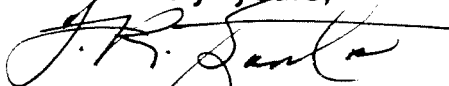
The Honorable Joe T. San Agustin
Speaker
Twenty First Guam Legislature
Agana, Guam

Dear Mr. Speaker,

The Committee on Housing, Community Development, Federal and Foreign Affairs, to which was referred **Bill No. 408**, has had said bill under consideration and herewith reports the same with its recommendation **TO DO PASS AS SUBSTITUTED BY THE COMMITTEE**. The votes of the Committee members are as follows:

TO DO PASS	8
TO DO NOT PASS	0
TO REPORT OUT ONLY	0
NOT VOTING/PASS ON FILE	0
OFF-ISLAND	2

Sincerely yours,



F.R. Santos

COMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT,
 FEDERAL, AND FOREIGN AFFAIRS
 TWENTY FIRST GUAM LEGISLATURE

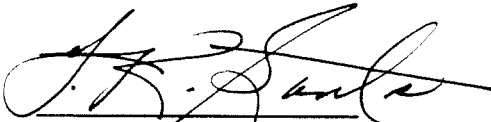

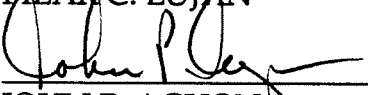
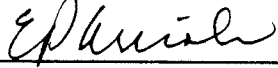
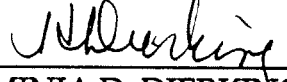

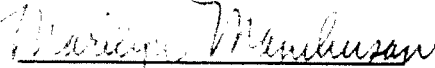


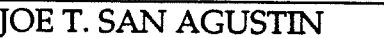
155 Hesler St.
 Agaña, Guam 96910

Senator Francisco R. Santos
 Chairman

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 Fax: (671) 477-3048

Voting Sheet

On Bill No. 408: An Act to Rezone certain parcels of privately owned property in the Finile Area of Agat from Agricultural (A) to Single Family Dwellings (R-1).

	TO DO PASS	TO DO NOT PASS	TO REPORT OUT ONLY	OFF ISLAND
 FRANK R. SANTOS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 PILAR C. LUJAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 JOHN P. AGUON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 ELIZABETH P. ARRIOLA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 HERMINIA D. DIERKING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 J. GEORGE BAMBA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 MARILYN D.A. MANIBUSAN	<input checked="" type="checkbox"/> 6/25/91 Mdn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 EDWARD R. DUENAS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 ANTHONY C. BLAZ	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 JOE T. SAN AGUSTIN	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Committee Report

on

Bill No. 408

AN ACT TO REZONE CERTAIN PARCELS OF PRIVATELY OWNED PROPERTY IN THE FINILE AREA OF AGAT FROM AGRICULTURAL (A) TO SINGLE FAMILY DWELLINGS (R1).

Executive Summary Bill No. 408

Section 1. Legislative Findings: The problems confronted with securing certificates of title for lots owned by multiple owners are impossible since the property cannot be subdivided into residential units.

Section 2. Listing of lots to be rezoned

Section 3. Instructs Dept. of Land Management to document rezoning.

Public Hearing

The Committee on Housing, Community Development, Federal and Foreign Affairs, to which was referred Bill No. 408, scheduled a public hearing on said legislation for June 25, 1991, at the residence of Mr. Robert Contreras, on Iloilo Drive, Finili, Agat, at 7:30 pm. Public notice was published in the Pacific Daily News in accordance with the Standing Rules of the 21st Guam Legislature. Additionally, fliers were distributed to residents of Agat, in particular, the residents of the Finili area, by the Mayor of Agat.

Notice of the public hearing were delivered to the Legislative Review Committee, Office of the Governor, (for distribution to the agencies and departments affected by the legislation) and to the Department of Land Management, the Bureau of Planning, the Territorial Land Use Commission.

Senators present at the public hearing were:

Senator Francisco R. Santos, Chairperson
Senator Carl T.C. Gutierrez
Speaker Joe T. San Agustin

Appearing before the Committee to present testimony were:

The Honorable Antonio Babauta
Mayor of Agat

Mr. Antonio C. Babauta
Resident of Agat

Mr. Tony Quinata
Resident of Umatac

There were no government officials appearing to provide input or the position of the Executive Branch on the proposed legislation.

Committee Recommendation

The Committee recommends passage of Bill 408, as substituted by the Committee, as a means by which the multiple owners of agriculturally zoned parcels in Agat, specifically those tracts and lots listed in the legislation, can secure named certificates of title to their property.

Committee Findings

1. The Committee finds that the purchase of agriculturally zoned and subdivided lots in the Finili area is not unlike purchases of similarly zoned property in other parts of the island.

2. The Committee finds that the practice of several individuals pooling their money resources in order to purchase a parcel of land or single land was not uncommon in earlier days when money was tight on Guam.

3. The Committee finds that there was no intention or design to circumvent the zoning laws of Guam when these purchases were made and that allegations of the nature that the buyers of these lots knew what they were getting into, though having a semblance of accuracy, does not adequately or honestly portray the intent nor the integrity of the individual citizens who purchased the property nor the original owner who sold the land.

4. The Committee finds that in order to avoid unnecessary financial losses and hardships on the non-certificated owners of property legislation must be enacted which would authorize the subdivision of these parcels of land into residential sized lots. This can be satisfied by rezoning the area from Agricultural (a) to Single Family Dwellings (R-1).

5. The Committee finds that the infrastructure in the area is adequate for single family dwelling zoning. An adequate sewer system was installed, in the mid 1970s, to service a large tract of land behind the area to be rezoned. Likewise, the potable water system is adequate for a single family residential area for both consumption and public safety purposes. The area is served by an adequate secondary power distribution system and the public rights of way and easements provided exceed the standards for a residential subdivision.

6. The Committee finds that this matter has been brought to the attention of the Territorial Land Use Commission, when it was still referred to as the Territorial Planning Commission, but that it was never fully reviewed nor considered important enough to warrant Commission action. The Committee finds that this injustice is unconscionable and reflects a very callous, unnecessary and unjust attitude towards the individual residents whose potential problems from this situation could be substantial and very traumatic.

Overview and Summary

The Committee on Housing, Community Development, Federal and Foreign Affairs was approached by the Honorable Antonio C. Babauta, Mayor of the Municipality of Agat, relative to the rezoning of a large tract of land in the Finili area of Agat. The residents of that area of Agat had approached Mayor Babauta in years past for a rezoning of the area from Agricultural (A) to Single Family Dwelling (R-1). The residents were seeking assistance in order to resolve a problem existing since the parcels of land were first placed on the market.

When the property was first sold, it was zoned Agricultural. Most of the individuals who wished to purchase property in the area were residents of Agat or nearby Santa Rita Village. Because of the

cost of the individual lots, many of the purchasers decided to pool their money resources in order to purchase a single parcel.

The parcels were purchased in one acre parcels. Each of these parcels were purchased by groups of individuals who had agreed before hand to pool their money resources, give the funds to a single person to handle the transaction with the original land owner.

Thus, one parcel of land was owned by more than one individual. In some instances, as many as six individuals had a parcel interest in a single lot. Because of the zoning laws, these one acre parcels could not be subdivided to satisfy the number of individuals actually claiming an interest in the lot. Because many of these individuals had already decided to build their homes on a self-construction basis, securing a certificate of title was not necessarily a priority. Likewise, because of the location of the area, many of these houses were built without the benefit of a building permit. Likewise, for those structures built with a building permit, the work was never closely scrutinized or inspected to insure that the person to whom the permit was issued was actually the person who was building the structure or who would be living in the structure.

Where problems started to develop was when individuals decided to leave island. This was especially problematic when the individual who was leaving Guam is the individual whose name appears on the certificate of title. This problem was brought to the attention of officials in the Department of Land Management and the Territorial Planning Commission and the matter and problem was never attended to.

When Mayor Babauta approached the Chairman of the Committee about the problem, the Chairman agreed that the problem was of such nature that it required immediate attention.

Two meetings with the affected residents were held in the Finili area at the same residence where the public hearing was held.

At the first meeting Senator Martha C. Ruth was present, together with Sen. Frank R. Santos, while at the second meeting, Senator Ruth was represented by a staff member. These meetings discussed in detail the problems being experienced by the property owners because of the existing zoning. It was noted by the Senators present that the Courts will only recognize the name appearing on the certificate of title and that probate problems would be substantial should the original owners pass away.

It should be noted that the two meetings served as very productive preludes to the official public hearing. At both of these meetings the greater majority of the affected land owners were present.

Summary of Testimony

Mayor Antonio Babauta testified in support of the proposed legislation noting that he and the residents of the Finili area had made several attempts to have this problem redressed by the Territorial Planning Commission (TLUC) and the Guam Legislature. The Mayor noted that the infrastructure of the area to be rezoned is adequate for the zoning being requested and has been adequate for many years. The Mayor noted that it was in the 1970s that a full service sewer system was installed in the area to service a potential subdivision of property belonging to F.L. Moylan located directly behind the area to be rezoned.

The Mayor further noted that the problems being faced by the residents of the area are substantial, in particular, problems related to the securing of mortgage loans for the building of homes. Because the owners of the property cannot subdivide the property into residential lot sizes because of the present zoning, many of the families are forced to build substandard homes or are not able to build homes in line with their economic resources.

Also appearing before the Committee in support of the legislation was Mr. Antonio Babauta, an owner of property contiguous to that to be rezoned. Mr. Babauta asked the Committee to include his family's property in the rezoning so that they may be able to subdivide the property to provide each of the children a lot on which to build their homes. Mr. Babauta noted that the property is adjacent to the area to be rezoned and will be served by the same infrastructure.

Mr. Tony Quinata appeared before the Committee in support of the legislation noting that he was hopeful and confident that because the Committee was attending to the problems confronted by the residents of the Finili area, the Committee would be likewise attentive to similar problems being faced by residents of Umatac.

In addressing the hearing, Speaker San Agustin noted that he was aware that this problem had previously been brought to the attention of the Legislature. He noted his support of the legislation because he was made aware that the infrastructure in the area would be adequate. Likewise, he was in support of the legislation because of similar problems being confronted in his home village of Dededo. As a financial management expert, Speaker San Agustin is aware of the problems relative to using the property for security when a certificate of title cannot be obtained.

TESTIMONY FOR RECORD

BILL NO. 408

WE THE UNDERSIGNED HEREBY REQUEST THE REZONING OF OUR PROPERTIES FROM AGRICULTURAL (A) TO SINGLE FAMILY DWELLINGS (R1).

NAME:

LOT NO.

AMA GUERRERO/JOSEFA PORTODO

SIGNATURE

180-4 D

MARIA GARRIDO/GUADALUPE CASTRO

SIGNATURE

180-4 A

ROSA PENAFIEL (dec.) FERNANDO PENAFIEL (adm.)/
CARMEN BABAUTA

SIGNATURE

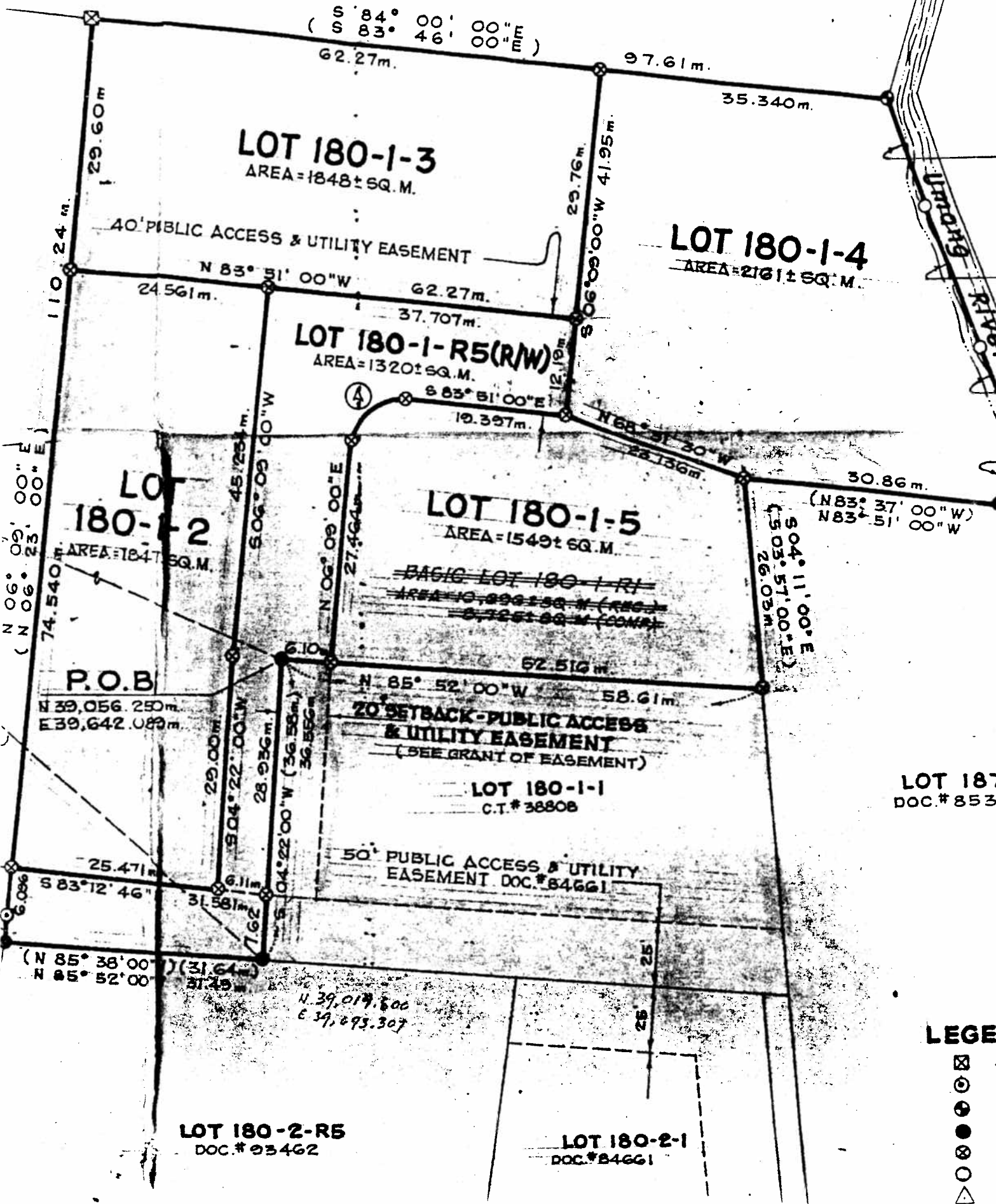
180-4 B

LOURDES BABAUTA HULETT AKA Lourdes Horder

SIGNATURE

180-4 C

Babatias



LOT 187
DOC. # 853

UMONG RIVER

(N 06° 09' 00" E)
(N 06° 23' 00" E)

S 84° 00' 00" E
(S 83° 46' 00" E)

S 04° 11' 00" E
(S 03° 57' 00" E)
26.03 m

(N 85° 38' 00"
N 85° 52' 00")

N 39,019.800
E 39,695.307

1 good majority of these owners have now approached the Legislature
2 requesting assistance in the form of rezoning so that they may be able to
3 secure certificates of title for subsequent home mortgages, the Legislature
4 finds that the rezoning of these parcels from Agricultural (A) to Single
5 Family Dwellings (R1) is justified.

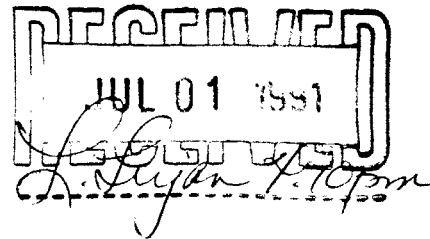
6
7 Section 2. The parcels and lots, hereinafter listed, and situated in
8 the Finile area of the Municipality of Agat, are hereby rezoned from
9 Agricultural (A) to Single Family Dwellings (R1):

- 10
11 a) Lots No. 1 thru 19 of Tract 233 (formerly Lot 170-1New-R4)
12 b) Lot No. 170-1New-1;
13 c) Lot No. 170-1New-2;
14 d) Lot No. 170-1New-3;
15 e) Lot No. 170-1New-4-1;
16 f) Lot No. 170-1New-4-2;
17 g) Lot No. 170-1New-4-3;
18 h) Lot No. 170-1New-4-4;
19 i) Lot No. 170-1New-4-5;
20 j) Lot No. 170-1New-4-6;
21 k) Lot No. 180-2-R5
22 l) Lot No. 180-4A thru Lot No. 180-4D
23 m) Lot No. 180-1-1 thru Lot No. 180-1-5
24
25

26 Section 3. The Director of Land Management is hereby instructed to
27 amend official zoning maps and all other pertinent documents to reflect
28 the zone changes authorized herein.



GOVERNMENT OF GUAM
AGANA, GUAM 96910



JUN 25 1991

Honorable Francisco R. Santos, Chairman
Committee On Housing, Community Development,
Federal and Foreign Affairs
Twenty-First Guam Legislature

Testimony on Bill No. 408, An Act To Rezone Certain
Parcels Of Privately Owned Property In The Finile Area Of
Agat From Agricultural (A) To Single Family Dwellings
(R1)

Mr. Chairman and members of the Committee:

Once again I am providing testimony on a bill proposing to rezone parcels of privately owned land. As in the past, the Bureau has consistently objected to the rezoning of private parcels in this manner (through proposed legislation), because it deprives the surrounding land owners and the community a chance to be made aware of and voice their position on the proposed rezoning and limits the amount of time various government agencies have to review and thoroughly assess the impact of the proposed rezoning.

The Bureau is not necessarily opposing the rezoning per se but the manner in which the rezoning is being attempted. The preferred method for the rezoning of privately owned parcels is accomplished through the TLUC process, which was created by the Legislature, to provide a reasonable and consistent process not only for those



Commonwealth No. 1


individuals who are seeking a change in zone of their land but also to provide the proper forum in which to address the probable effects of the proposed zone change by both the community and the government agencies.

All factors are taken into consideration through this process, i.e., availability and adequacy of existing and proposed infrastructure for the area, impact on the educational system, amount of traffic to be generated as a result of the zone change; impacts on the surrounding area and the community in the form of the compatibility of the proposed zone change with the existing character of the area/community; and sufficient time and forum in which these concerns can be and are addressed by those to be affected.

Therefore, in view of the reasons and concerns stated above, and because the good of the community as a whole must be satisfied before that of the individual, the Bureau does not support the passage of Bill No 408 and recommends that the land owners be advised to submit their request through the Territorial Land Use Commission process in order to allow for the proper review and evaluation of the request. Through this method all parties affected will be best served.

Additionally, legislation is currently being introduced (Bill No.'s 352 & 353) which proposes to exchange lot no. 19, of Tract 233, (formerly basic lot 170-1NEW-R4) which is involved in the proposed zone change from "A" to "R-1". If approved, this will increase the cost to the Government for the proposed land exchange (based on value per value basis).

Si Yu'os Ma'ase' for the opportunity to voice our concern on this important matter. If you desire to investigate the various shortcomings of the zone change process further, we have identified our own concerns and stand ready to discuss them with you or your staff.


MICHAEL J. CRUZ
Acting
Bureau Of Planning



DEPARTMENT OF LAND MANAGEMENT
GOVERNMENT OF GUAM
AGANA, GUAM 96910

June 25, 1991

The Honorable Frank R. Santos
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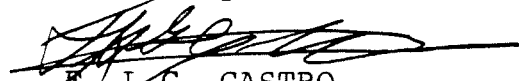
Subject: Legislative Bill No. 408

Dear Mr. Chairman:

Essentially, the department does not favor the rezoning of lots without going through the normal processes where the experts from various Agencies are not given the opportunity to express their views. On the contrary, we also recognized the known fact that we are being guided by an extremely outdated Zoning Maps and often, the designations prohibits our local land owners into utilizing their properties in the manner they see best to accommodate the needs of their families. In such instances, our local residents turns to the Legislature for its assistance and no one should blame them for that.

As a matter of fact, it is within the Legislature's purview to entertain such a matter and for so long as the said Body conducts a public hearing where people concerned are given the opportunity to come forth and express their views, we do not see anything wrong with that. Had the new Master Plan and Zoning matters have been concluded, we will in all likelihood oppose spot zoning but under the circumstances of the outdated zoning maps and the Legislature's obligation to accommodate the needs of the people, we support Bill 408.

Sincerely,


F. L.G. CASTRO
Director, Department of
Land Management



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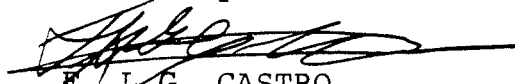
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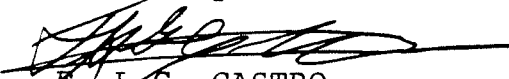
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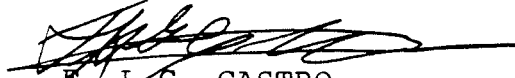
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Essentially, the department does not favor the rezoning of lots without going through the normal processes where the experts from various Agencies are not given the opportunity to express their views. On the contrary, we also recognized the known fact that we are being guided by an extremely outdated Zoning Maps and often, the designations prohibits our local land owners into utilizing their properties in the manner they see best to accommodate the needs of their families. In such instances, our local residents turns to the Legislature for its assistance and no one should blame them for that.

As a matter of fact, it is within the Legislature's purview to entertain such a matter and for so long as the said Body conducts a public hearing where people concerned are given the opportunity to come forth and express their views, we do not see anything wrong with that. Had the new Master Plan and Zoning matters have been concluded, we will in all likelihood oppose spot zoning but under the circumstances of the outdated zoning maps and the Legislature's obligation to accommodate the needs of the people, we support Bill 408.

Sincerely,


F. L.G. CASTRO
Director, Department of
Land Management



Commonwealth Now!



DEPARTMENT OF LAND MANAGEMENT
GOVERNMENT OF GUAM
AGANA, GUAM 96910

June 25, 1991

The Honorable Frank R. Santos
Chairman, Committee on Housing,
Community Development, Federal
and Foreign Affairs
Twenty First Guam Legislature
Agana, Guam 96910


Subject: Legislative Bill No. 408

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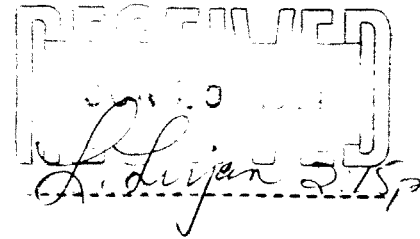

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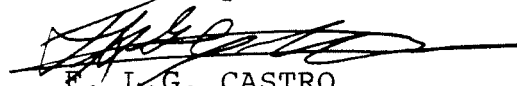
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TESTIMONY FOR RECORD

BILL NO. 408

WE THE UNDERSIGNED HEREBY REQUEST THE REZONING OF OUR PROPERTIES FROM AGRICULTURAL (A) TO SINGLE FAMILY DWELLINGS (R1).

NAME:

LOT NO.

ANA GUERRERO/JOSEFA PORTODO

Ana Guerrero / Josefa Portodo
SIGNATURE

180-4 D

MARIA GARRIDO/GUADALUPE CASTRO

Maria Garrido / Guadalupe Castro
SIGNATURE

180-4 A

ROSA PENAFIEL (dec.) FERNANDO PENAFIEL (adm.)/
CARMEN BABAUTA

Rosa Penafiel / Fernando Penafiel / Carmen Babauta
SIGNATURE

180-4 B

LOURDES BABAUTA HULETT AKA Lourdes Horber

Lourdes Horber
SIGNATURE

180-4 C

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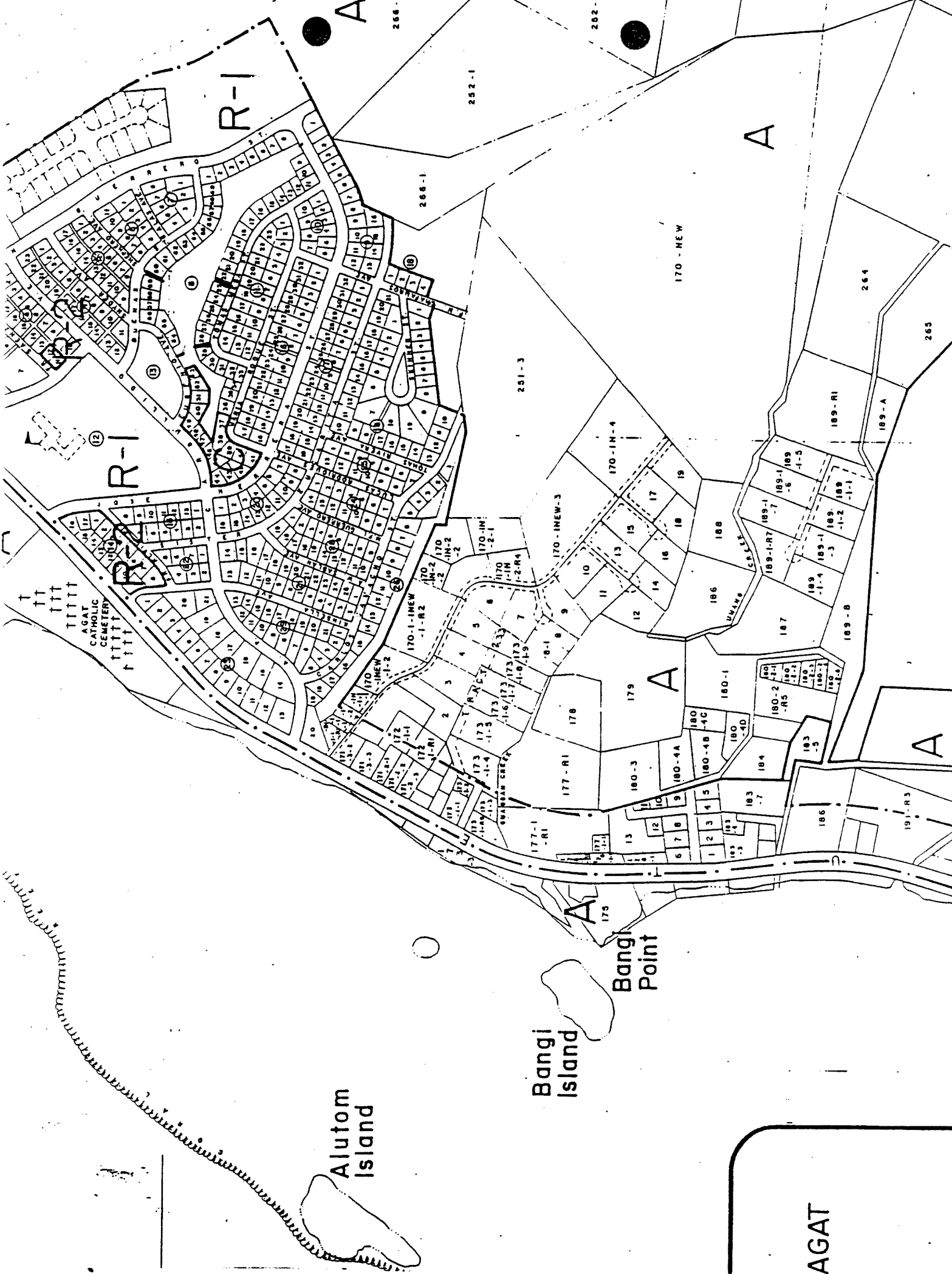
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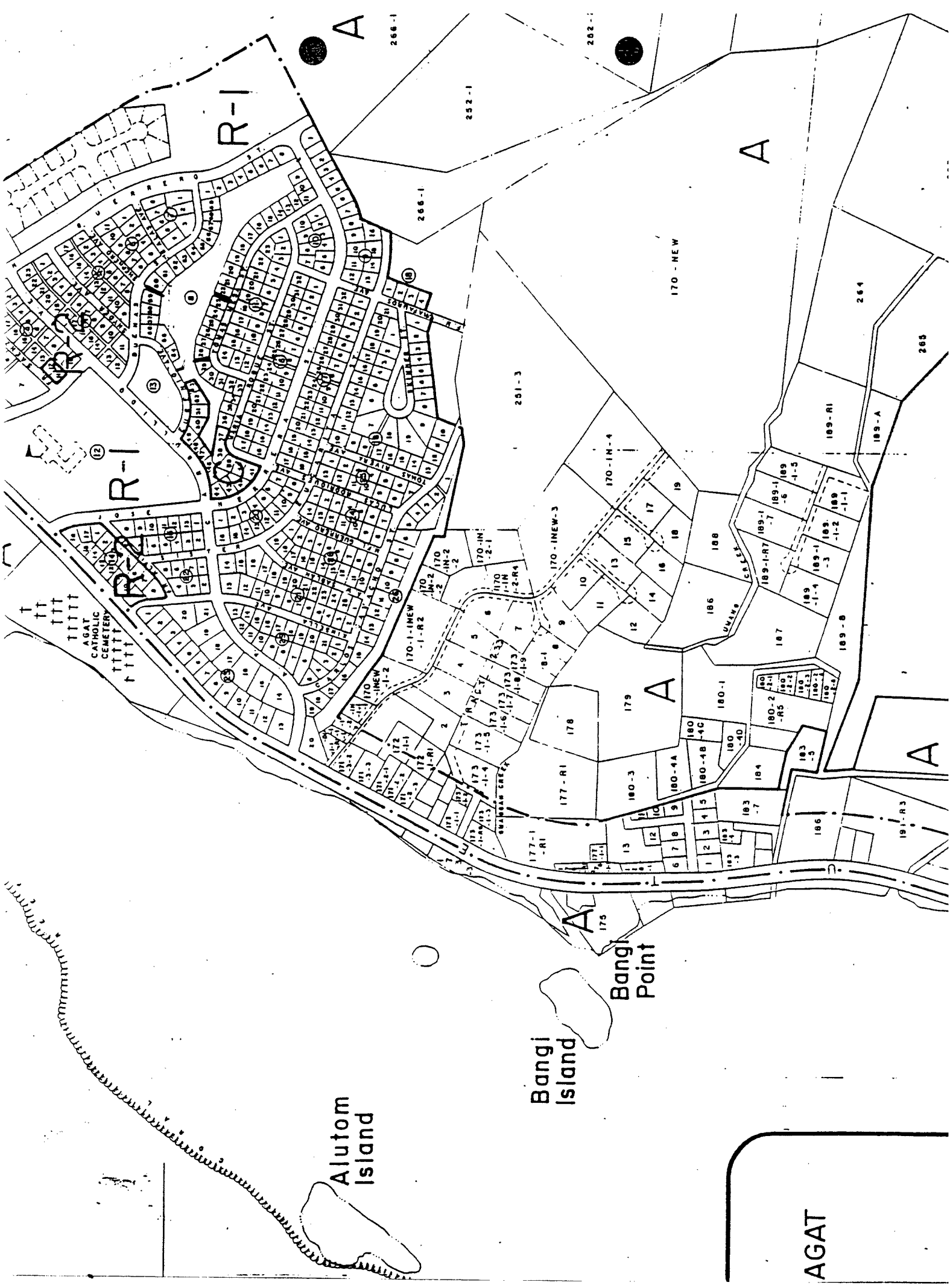
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SIGNATURE

180-4 C



AGAT

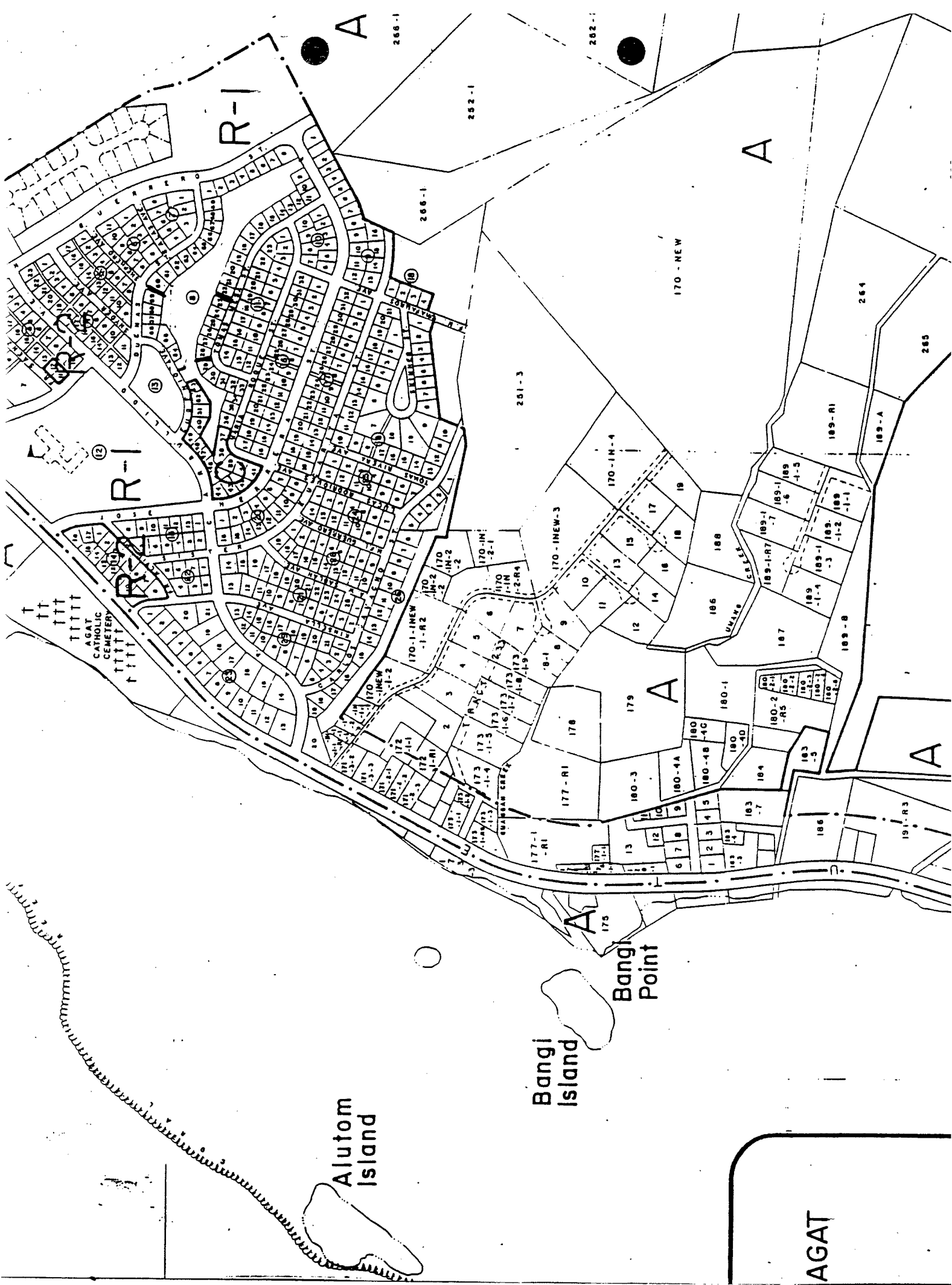


Alutom Island

Bangi Island

Bangi Point

AGAT



Alutom
Island

Bangi
Island

Bangi
Point

AGAT

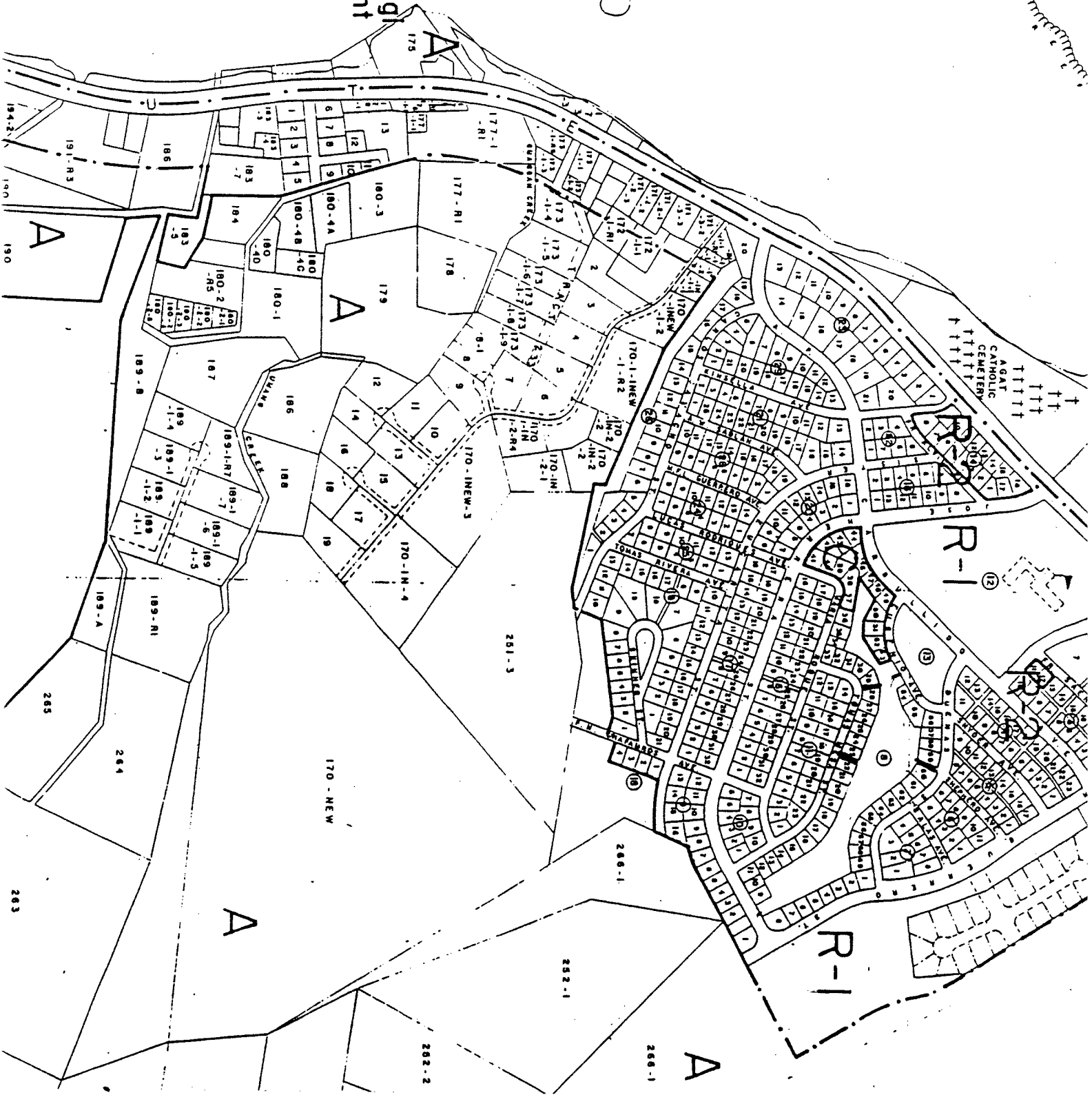


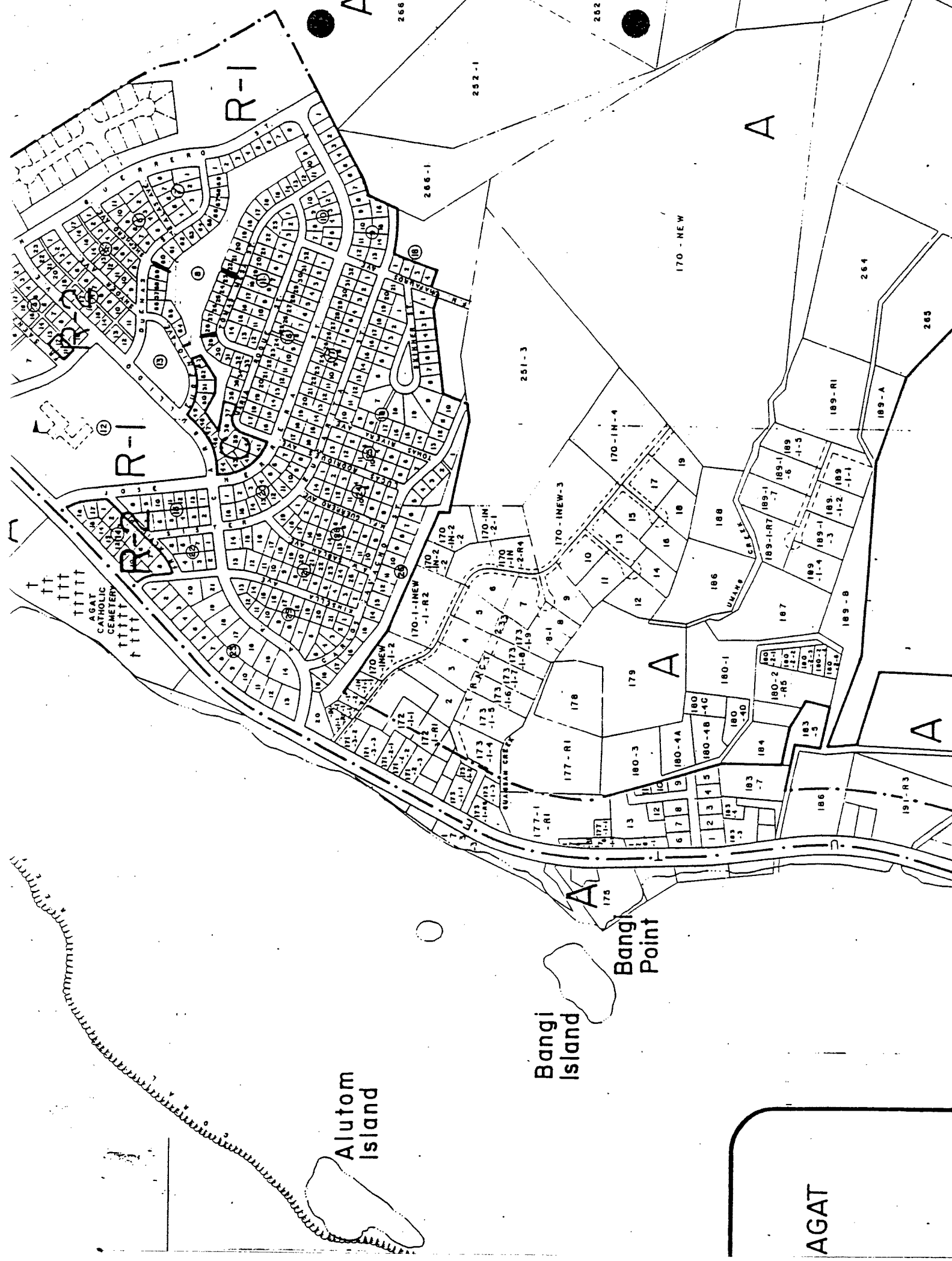
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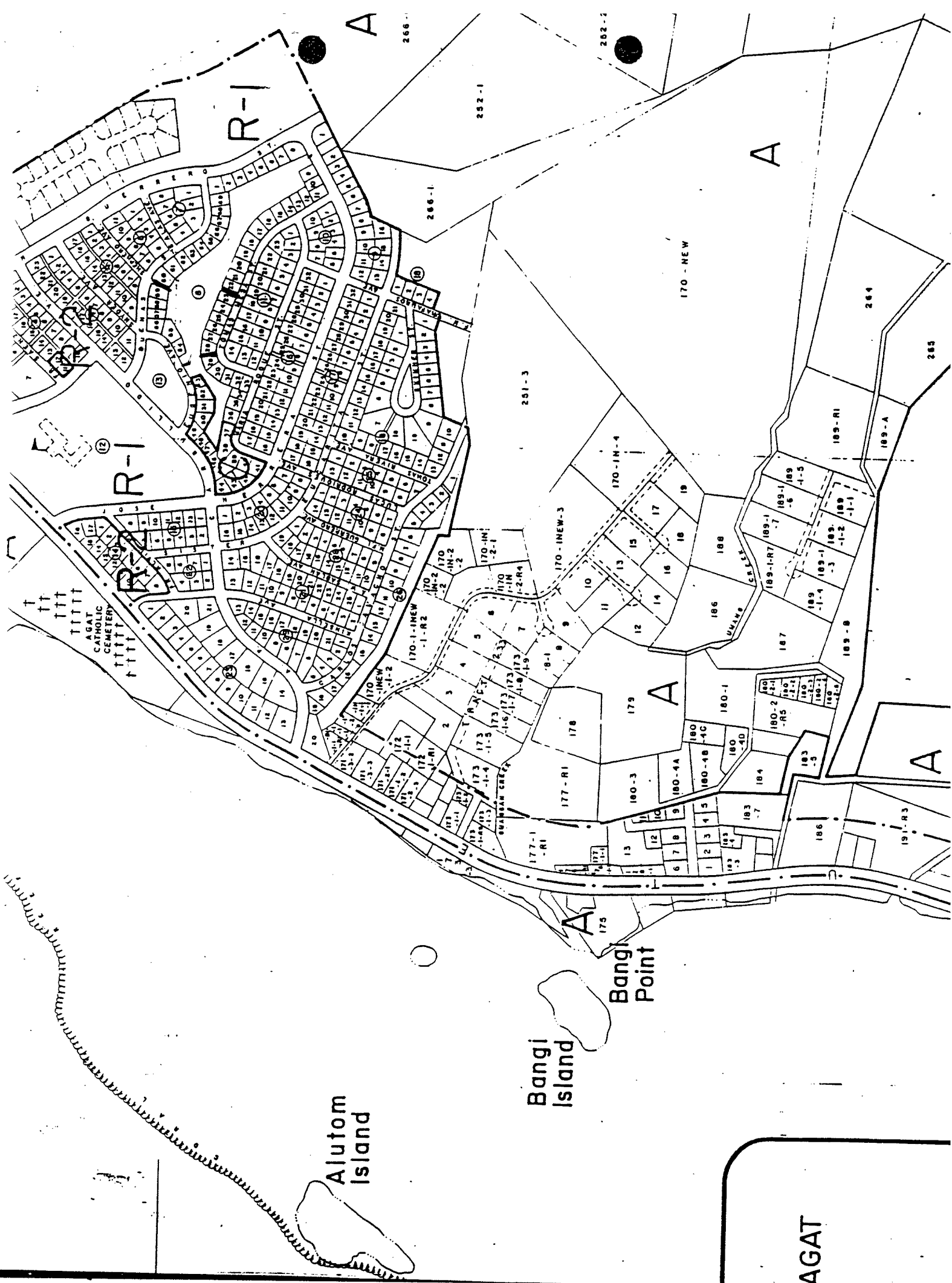
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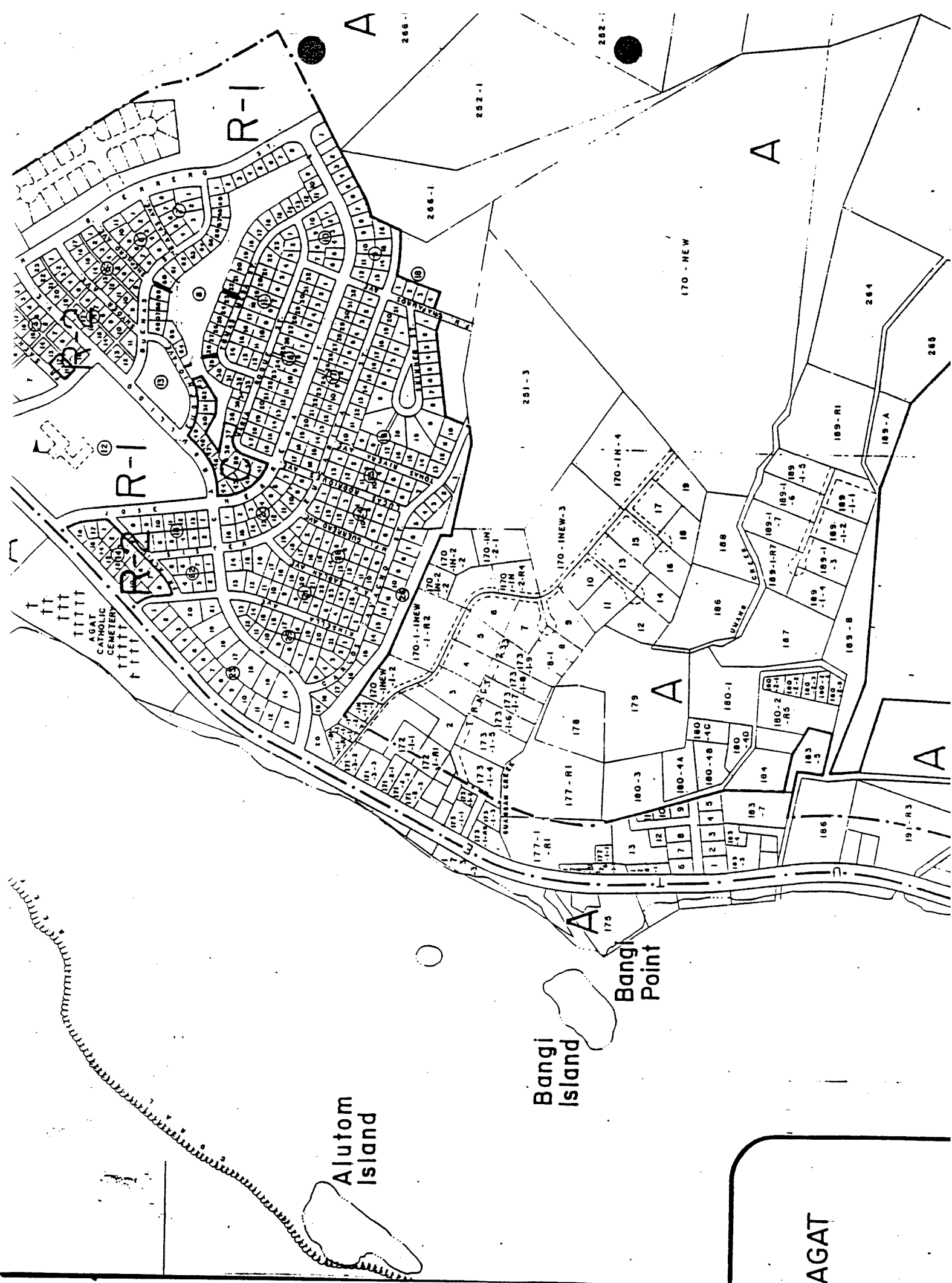
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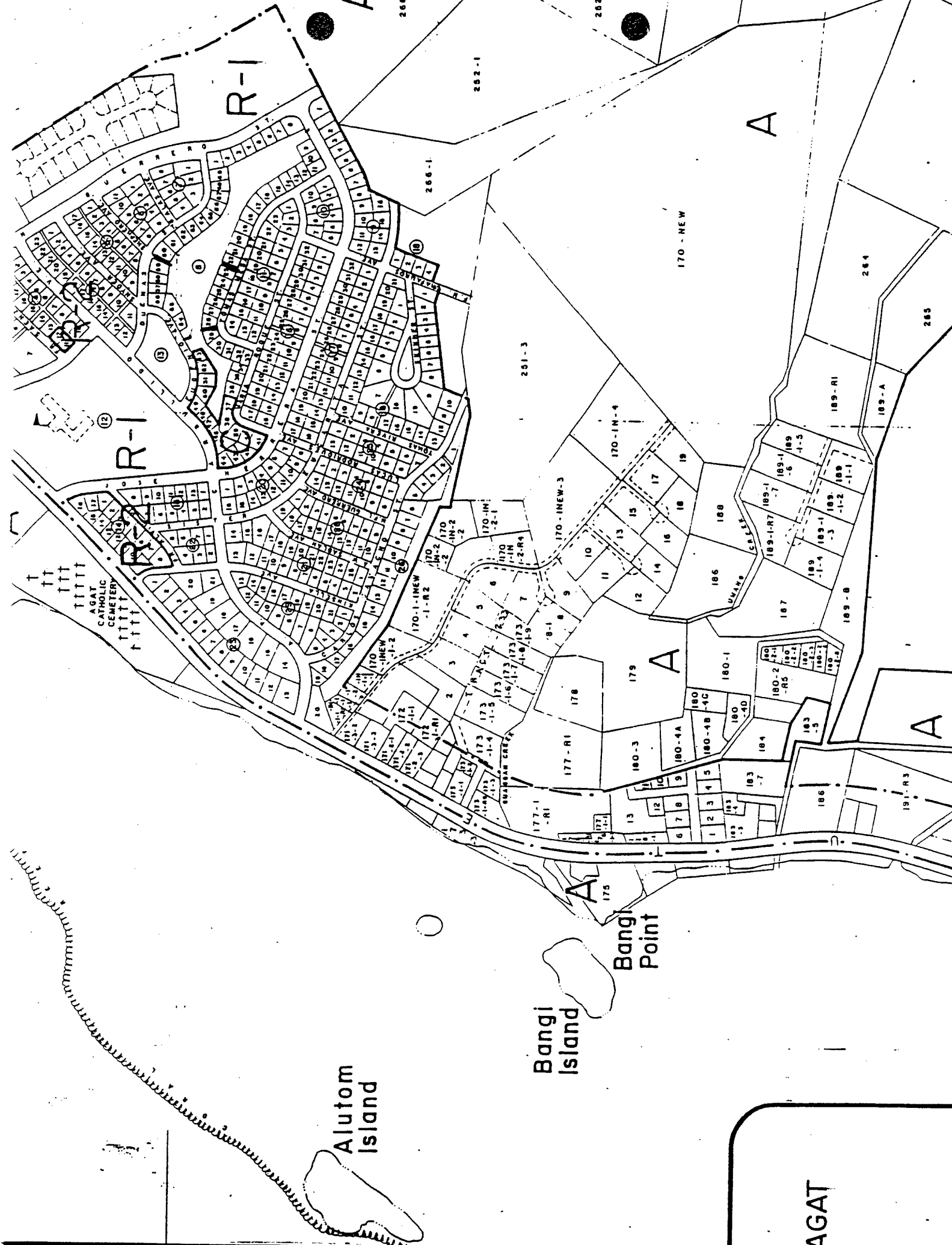
AGAT











R-1

R-1

A

170 - NEW

266 - 1

282 - 1

251 - 3

265

264

AGAT CATHOLIC CEMETERY

170 - INEW - 1-1

170 - INEW - 1-2

170 - INEW - 1-3

170 - INEW - 1-4

170 - INEW - 1-5

170 - INEW - 1-6

170 - INEW - 1-7

170 - INEW - 1-8

170 - INEW - 1-9

170 - INEW - 1-10

170 - INEW - 1-11

170 - INEW - 1-12

170 - INEW - 1-13

170 - INEW - 1-14

170 - INEW - 1-15

170 - INEW - 1-16

170 - INEW - 1-17

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170 - INEW - 1-19

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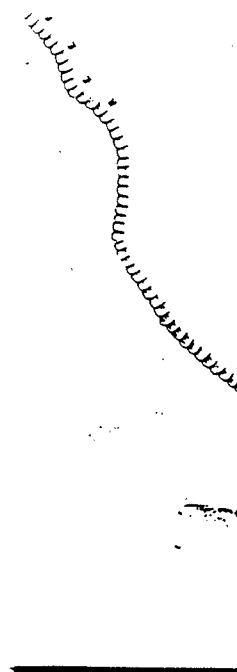
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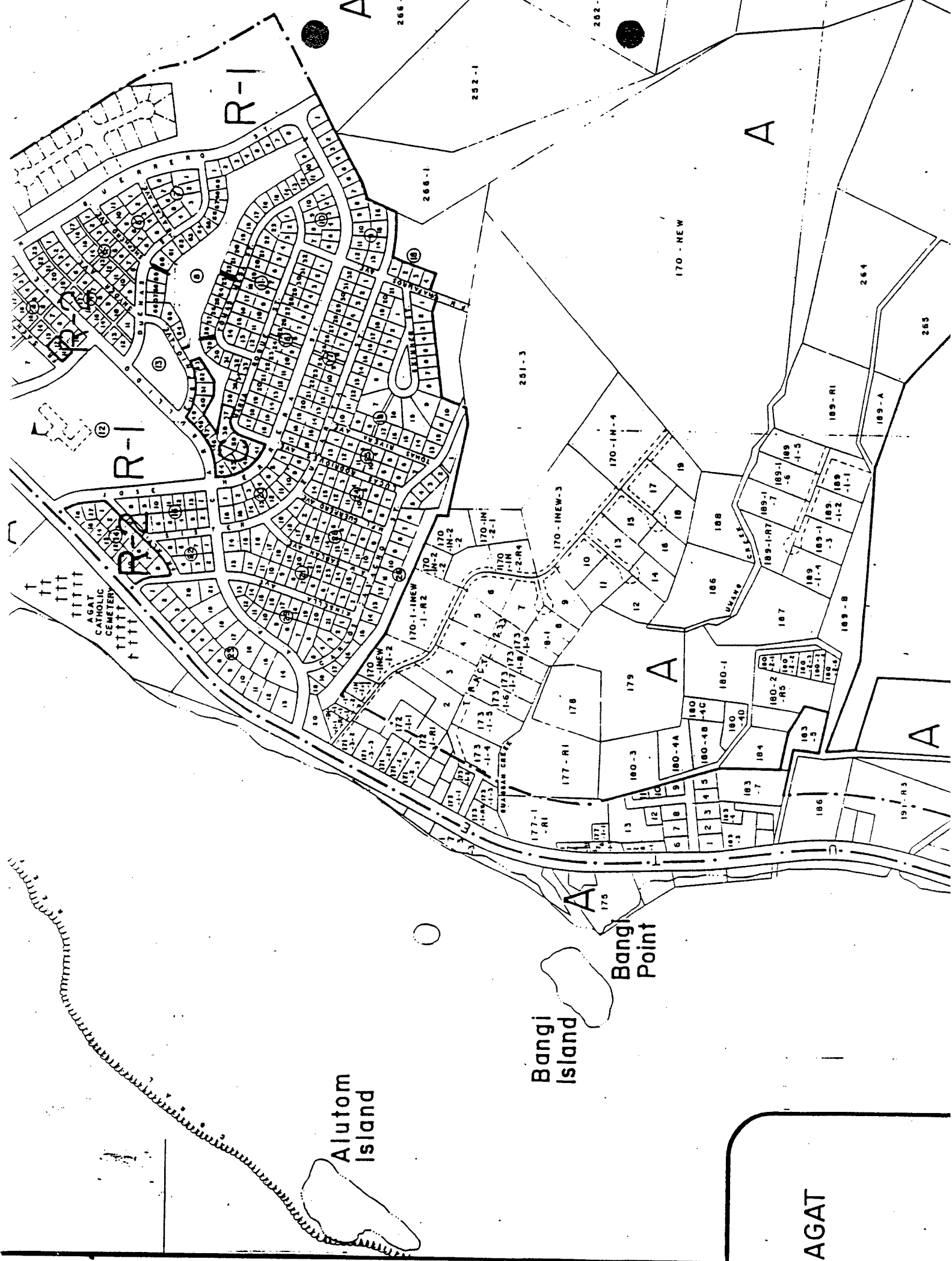


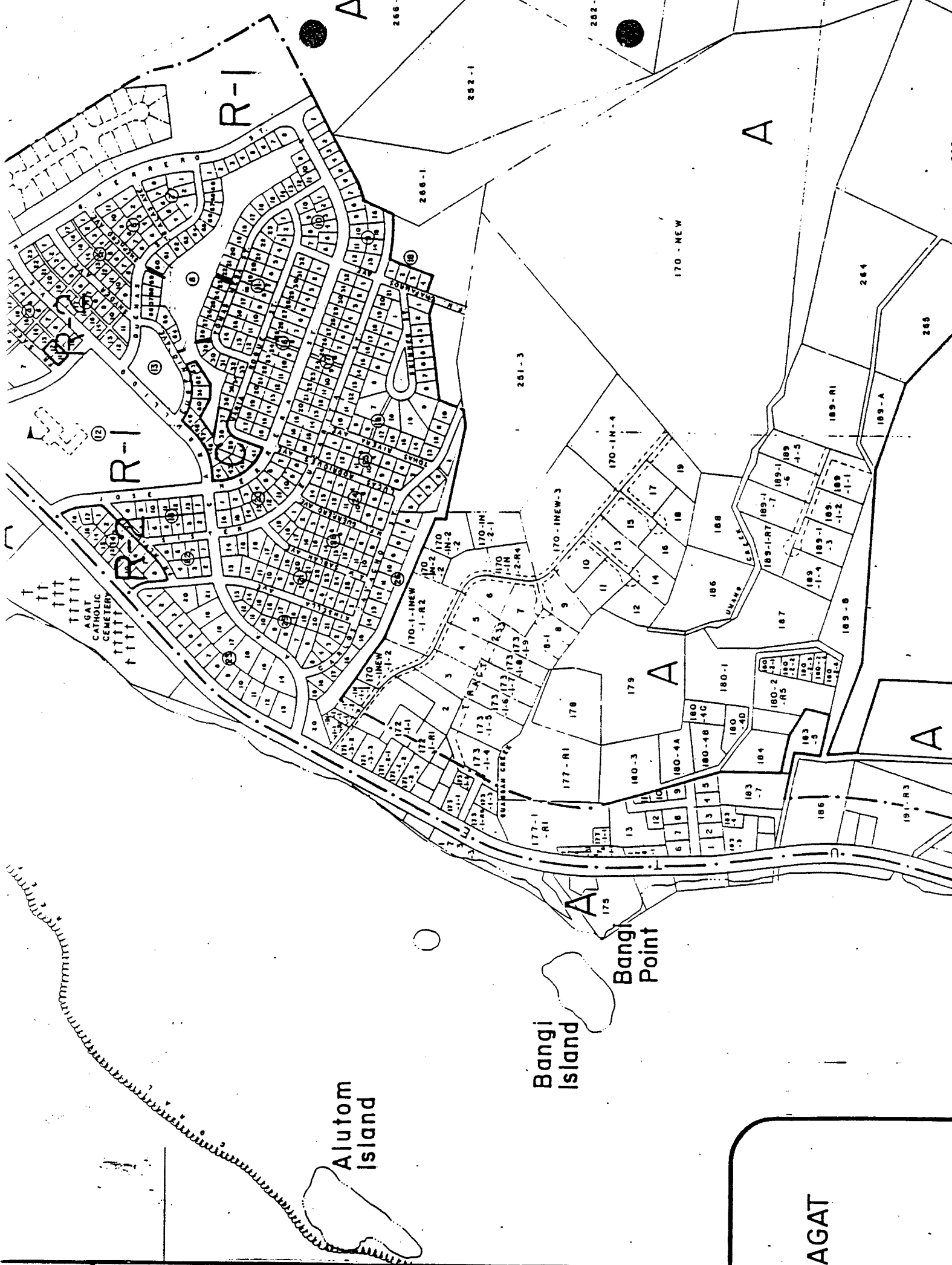
Alutom Island

Bangi Island

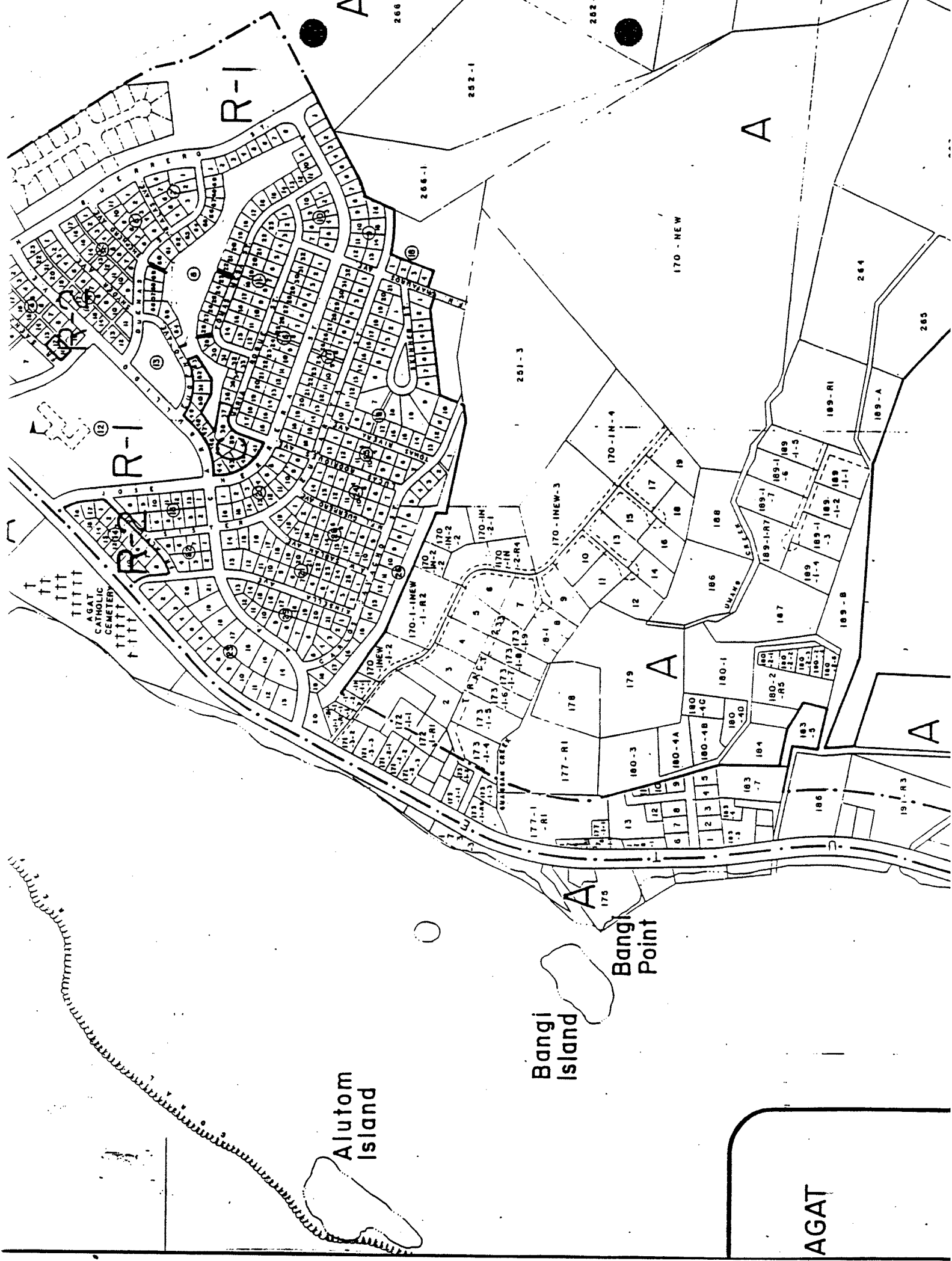
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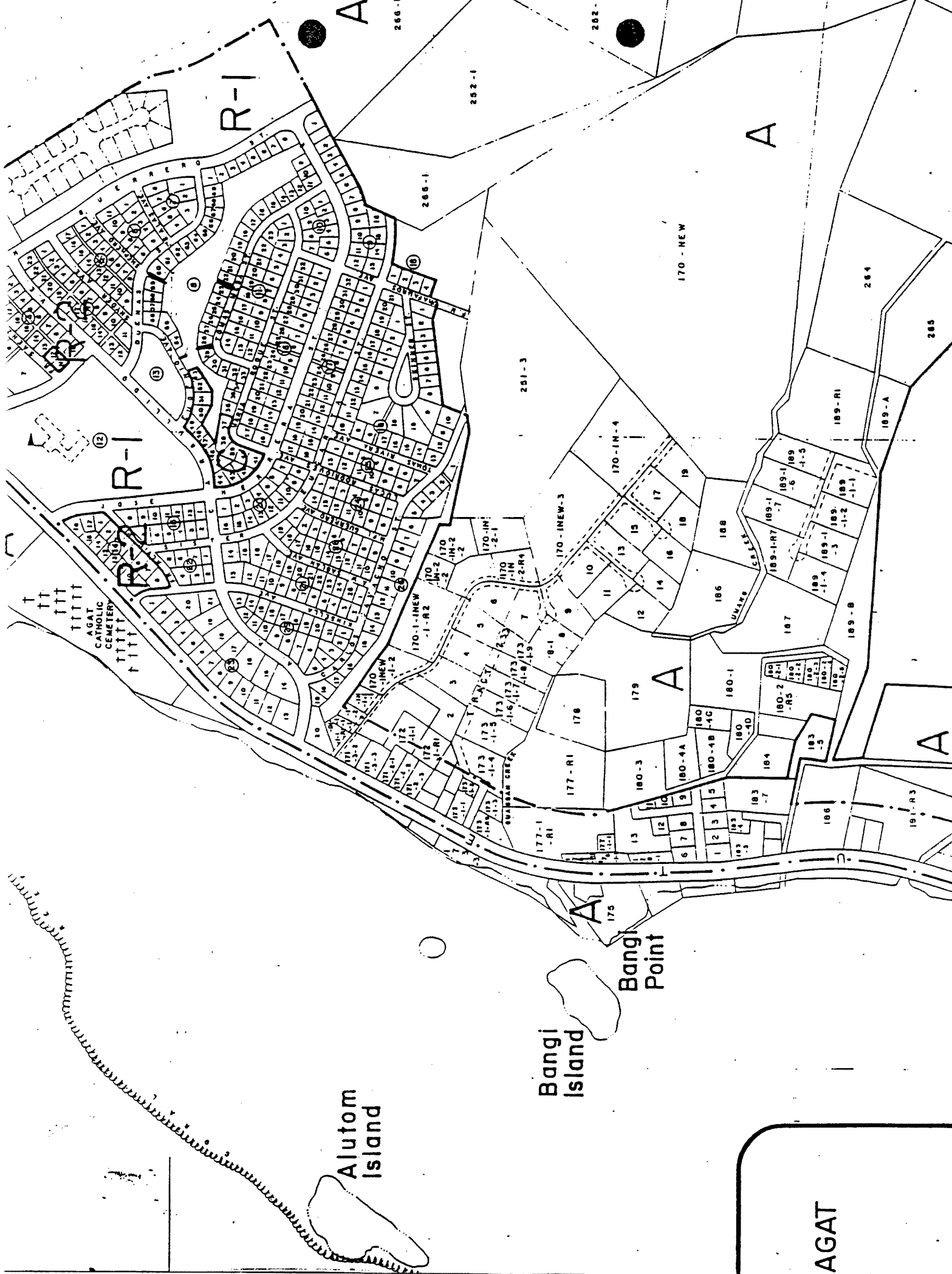
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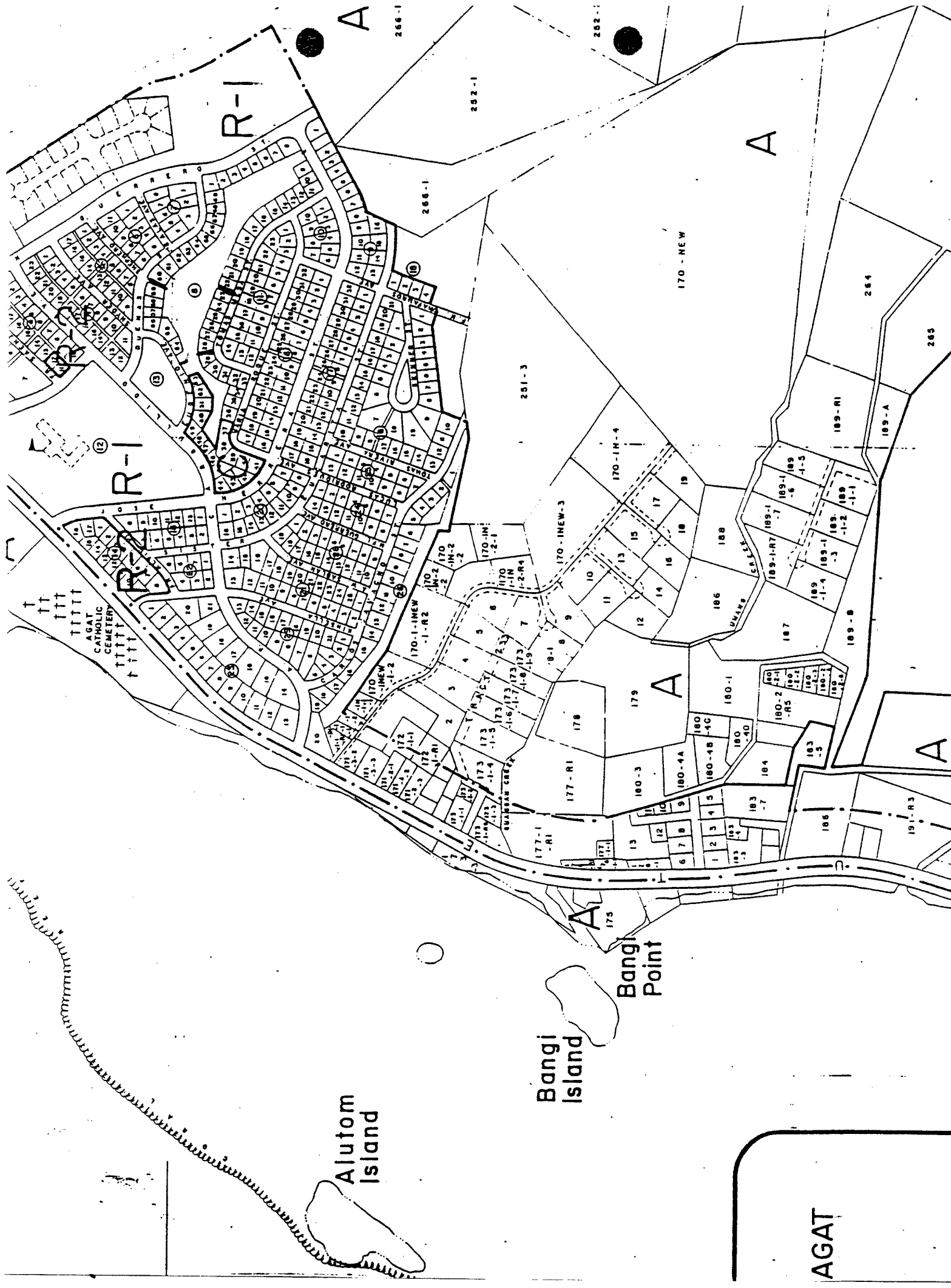


Alutom Island

Bangli Island

Bangli Point

AGAT



Alutom Island

Bangli Island

Bangli Point

AGAT

AGAT CATHOLIC CEMETERY

R-1

R-1

A

A

A

A

170-NEW

281-3

266-1

282-1

266-1

282-1

264

265

189-RI

189-A

170-IN-4

170-INEW-3

170-INEW-1-R2

170-IN-2

170-IN-2-1

170-IN-1

170-IN-2-R4

179

178

177-RI

180-3

180-4A

180-4B

180-1

180-2-1

180-2-2

180-2-3

180-1

180-1

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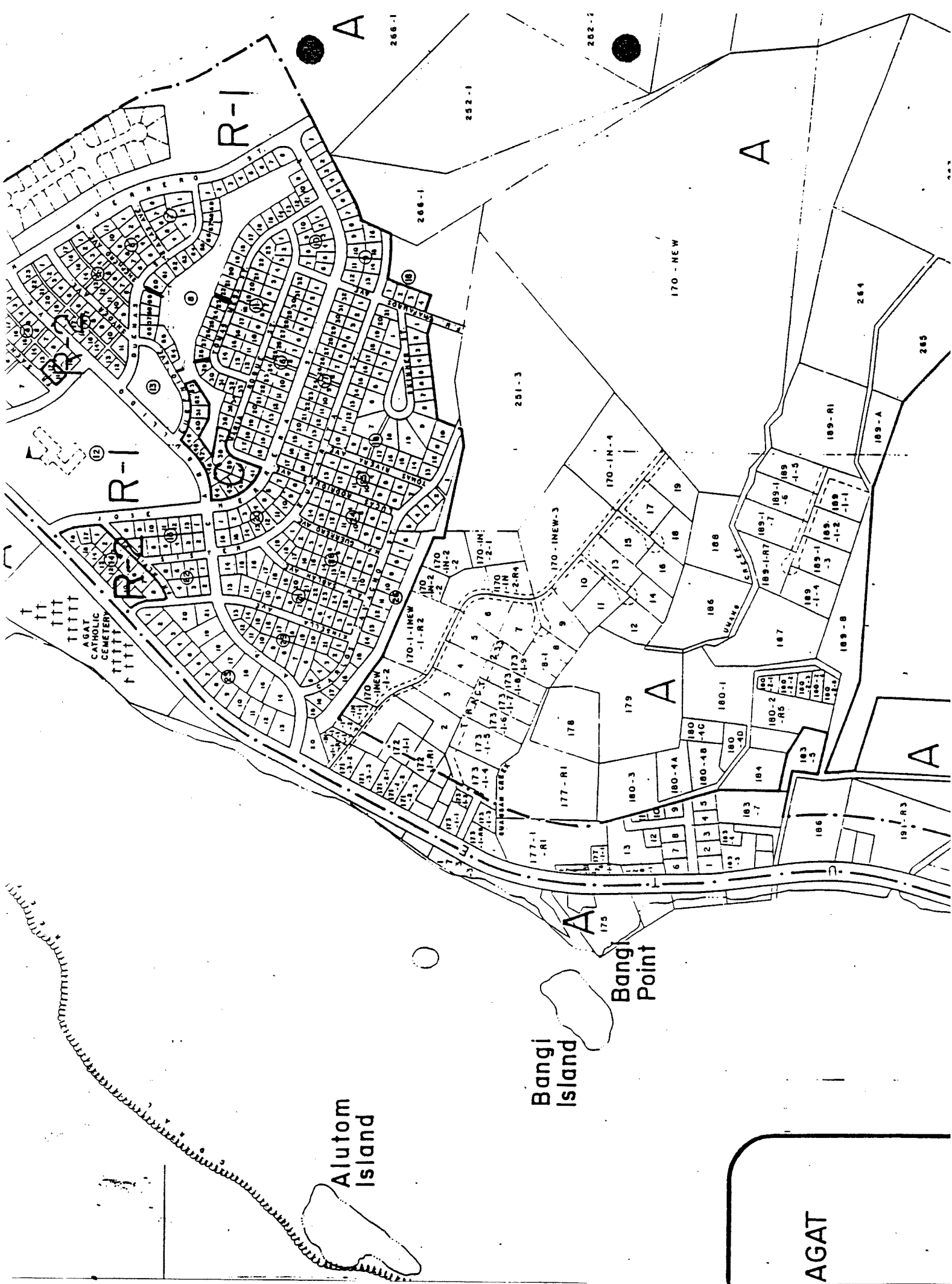
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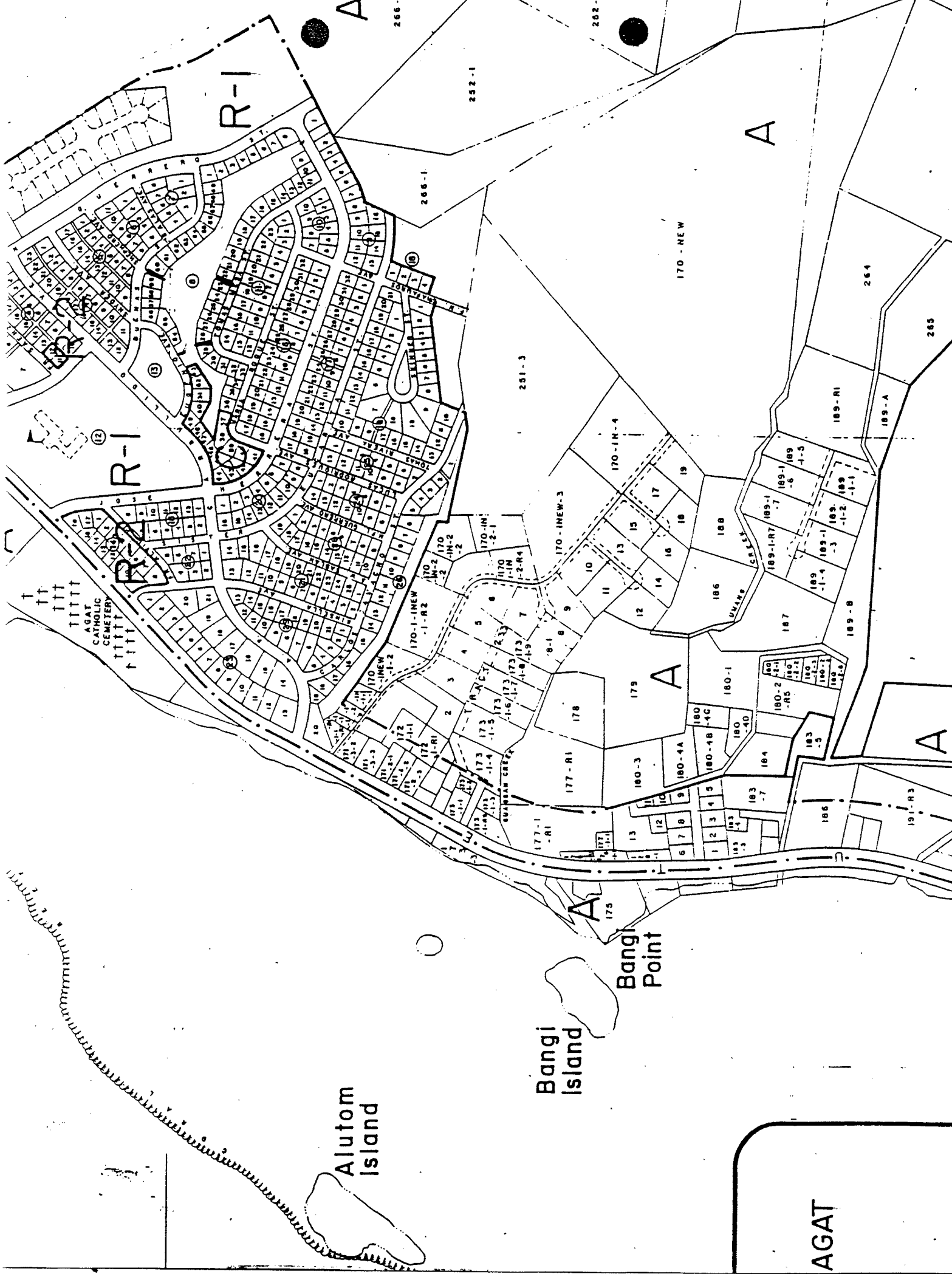
180-1

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Alutom Island

Bangli Island

Bangli Point

AGAT

R-1

R-1

R-1

A

A

A

A

266-

262-

252-1

266-1

251-3

170-NEW

264

265

AGAT CATHOLIC CEMETERY

SUNSHINE CREEK

170-NEW-1

170-NEW-2

170-NEW-3

170-NEW-4

170-NEW-5

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170-NEW-8

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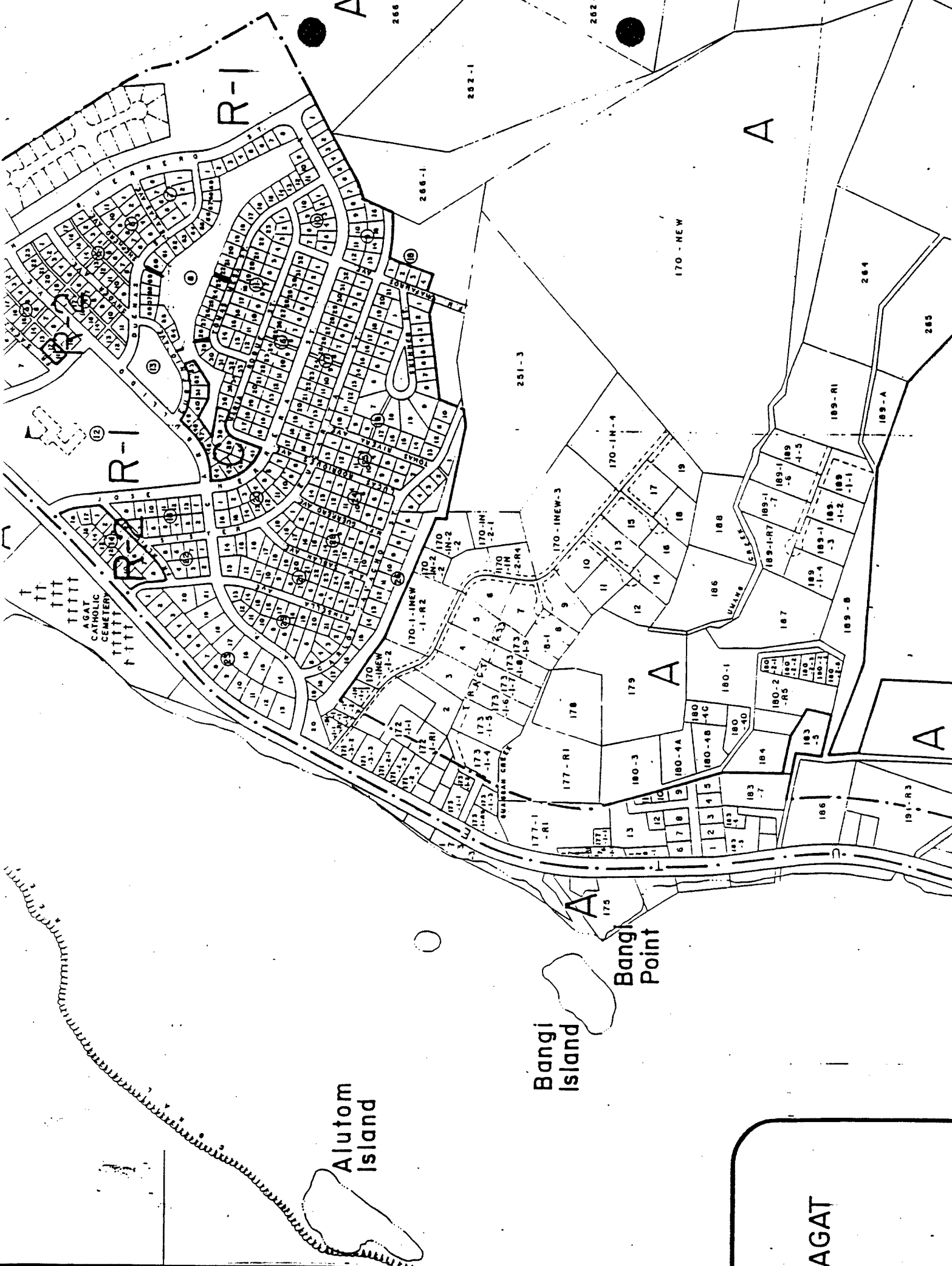
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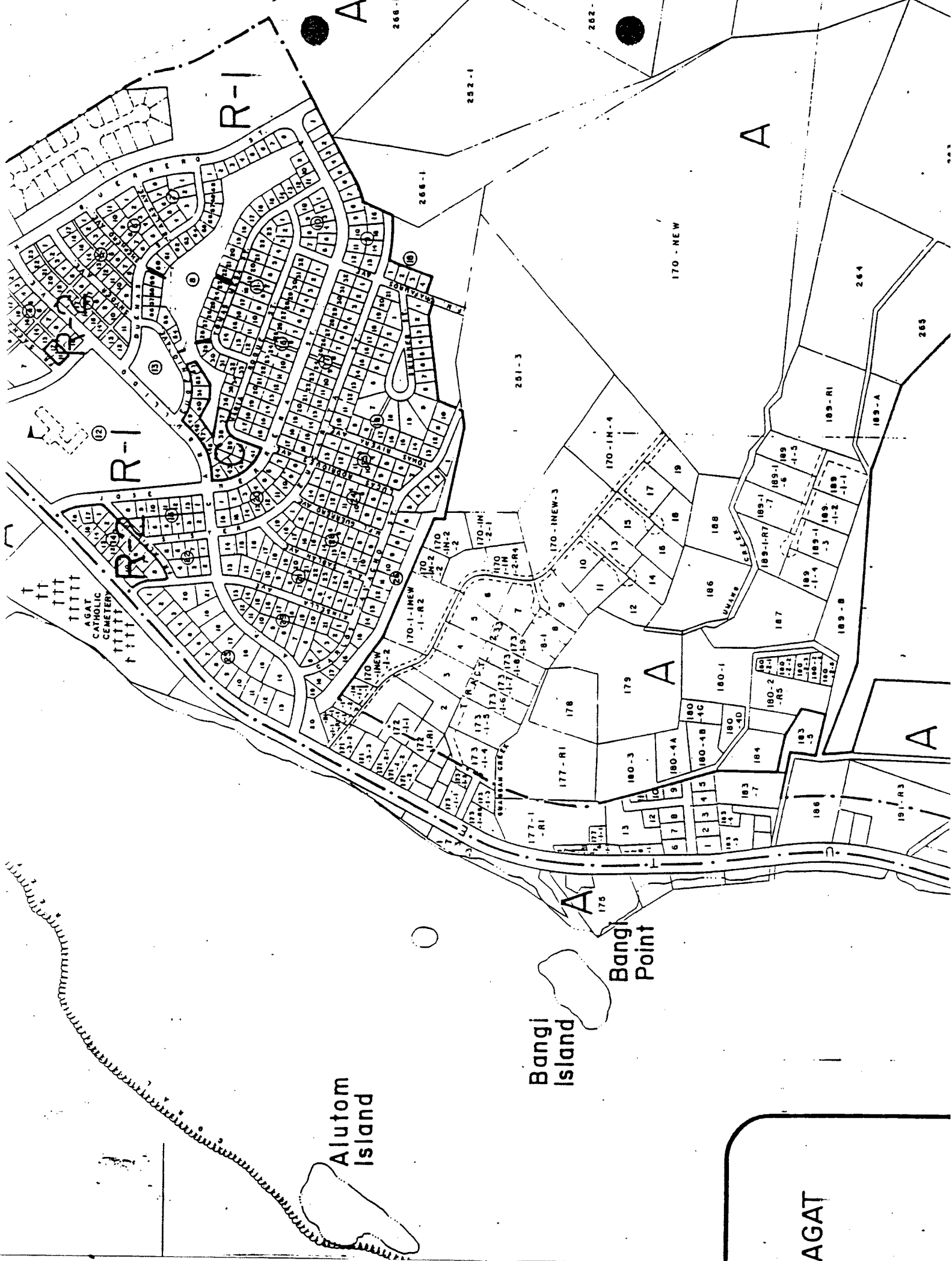


Alutom Island

Bangji Island

Bangji Point

AGAT



R-1

R-1

Alutom Island

Bangi Island

Bangi Point

AGAT

AGAT CATHOLIC CEMETERY

170 - NEW

