

Exhibit No.:

Issue:

Overview of application;  
Big Island Development;  
Water and Sewer  
Systems

Witness:

Sponsoring Party:

Barbara Brunk  
Folsom Ridge LLC and Big  
Island Homeowners Water  
and Sewer Association, Inc.

Case No.:

Case No. WO-2007-0277

**Joined for hearing with  
Case No. WC-2006-0082**

**FILED<sup>2</sup>**

APR 02 2007

**Missouri Public  
Service Commission**

FOLSOM RIDGE LLC  
AND BIG ISLAND HOMEOWNERS WATER AND SEWER ASSOCIATION, INC.

Case No. WO-2007-0277

**Joined for hearing with  
Case No. WC-2006-0082**

DIRECT TESTIMONY

OF

BARBARA BRUNK

Longmont, Colorado  
February, 2007

*Folsom  
Ridge* Exhibit No. 12  
Case No(s) WC-2006-0082 et al  
WO-2007-0277  
Date 2-28-07 Rptr 48

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of the Application of )  
Folsom Ridge LLC and Big Island )  
Homeowners Water and Sewer Association, )  
Inc. for an order authorizing the transfer ) Case No. WO-2007-0277  
and Assignment of Certain Water and )  
Sewer Assets to Big Island Water )  
Company and Big Island Sewer )  
Company, and in connection therewith )  
certain other related transactions. )

AFFIDAVIT OF BARBARA BRUNK

STATE OF COLORADO )  
 ) ss.  
COUNTY OF BOULDER )

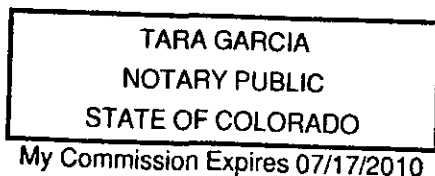
I, Barbara Brunk, of lawful age, and being duly sworn, do hereby depose and state:

1. My name is Barbara Brunk. I am presently manager of Resource Conservation Partners, LLC. I am also Secretary of Big Island Water & Sewer Company, Inc., the applicant in this case.
2. Attached hereto and made a part hereof for all purposes is my direct testimony.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my personal knowledge, information and belief.

Barbara Brunk  
Barbara Brunk

Subscribed and sworn to before me, a Notary Public, this 13 day of February, 2007.

Tara Garcia  
Notary Public



DIRECT TESTIMONY OF BARBARA BRUNK

Q. **What is your name and business address?**

A. My name is Barbara Brunk and my business address is, P.O. Box 1522, Longmont CO 80502.

Q. **What is your position of employment?**

A. I am the manager of Resource Conservation Partners, LLC. which provides consulting services to land development and conservation organizations.

Q. **What is your education and work experience?**

A. I have attached BB Schedule 1 which summarizes my education and professional experience.

Q. **Do you hold a position with Folsom Ridge LLC or Big Island Homeowners Water and Sewer Association, Inc.?**

A. No I do not hold positions with either. However, I have been a consultant to Folsom Ridge for some time. While with my previous employer, TetraTech RMC, I started providing land planning consulting services to Folsom Ridge during the spring and early summer of 2004. Those services have continued through Resource Conservation Partners, LLC since August of 2004.

Q. **What is the purpose of your testimony?**

1 A. I will provide an overview of several topics that pertain to the application. I will discuss  
2 in general the history of the real estate development ongoing on Big Island at the Lake of  
3 the Ozarks; the construction of the water and sewer systems on the Island, their  
4 operations and improvements and current rates for service; and compliance with  
5 regulatory agencies.

6  
7 Q. **Ms. Brunk, while serving as a consultant to Folsom Ridge, have you become familiar**  
8 **with the history and business of the company particularly in regard to the water**  
9 **and sewer systems on Big Island in the Lake of the Ozarks.**

10 A. Yes, I have. Folsom Ridge LLC was formed in 1997 to engage in the business of owning  
11 and developing real property in the State of Missouri. In pursuit of that purpose, Folsom  
12 Ridge purchased all, or nearly all, of undeveloped Big Island at the Lake of the Ozarks,  
13 which is located near Roach, Missouri. Folsom Ridge also purchased an adjacent 190  
14 acres. Shortly after purchasing the property, Folsom Ridge proceeded to install the  
15 necessary infrastructure to develop the land. Folsom Ridge platted and re-platted  
16 portions of that land, sold homes and lots to local builders and it is currently building  
17 villas in Phase 1 of the "Big Island Planned Unit Development." I will explain many of  
18 these events in more detail later in my testimony.

19  
20 Q. **Can you tell the Commission any other real estate developments that Folsom Ridge**  
21 **is undertaking.?**

22 A. Folsom Ridge has concentrated entirely on its development of Big Island and the adjacent  
; 190 acres I mentioned earlier. The 190 acres, now known as Island View Estates, has

1           been subdivided into 35, 3 acre to 12 acre building sites to be sold for custom homes. The  
2           roads are paved and the lots are ready to sell. I will add that even though Folsom Ridge  
3           has devoted itself to a single development, this is not the first nor the only real estate  
4           development the members of the company have been involved in.

5  
6   **Q.     Who are the members of the company at this time?**

7   A.     Reginald V. Golden and Frederick S. (Rick) Rusaw. I have attached to my testimony as  
8           BB Schedule 2 the current biographies of the members.

9  
10 **Development on Big Island**

11 **Q.     How was Big Island selected for development by Folsom Ridge?**

12 A.     Mr. David Lees, one of the initial members of the LLC, brought the project to the group.  
13           The members evaluated the cost, the location and the level of activity at the Lake of the  
14           Ozarks at that time and determined that there was potential for future development. After  
15           that, the company commenced the acquisition of property. Its first property purchase was  
16           on November 25, 1998.

17  
18 **Q.     How many acres has Folsom purchased in its name?**

19 A.     Approximately 350 acres comprising undeveloped land and approximately 200 lots in  
20           several platted subdivisions. Since that time Folsom has platted an additional 393 lots.

21  
22 **Q.     What is the developer's vision for full development of Big Island?**

1 A. The vision for the Big Island development has changed over time. In its present form, the  
2 Big Island development is envisioned as a community that not only makes full use of the  
3 recreational opportunities supplied by one of the largest inland lakes of the nation, but  
4 also preserves the natural environment. The design for the development includes the  
5 preservation of native vegetation but also the planting of native species as anchors for  
6 new homes. Homes will be built so that woodlands are minimally disturbed. The  
7 architecture of those homes will resemble the historic lakefront and woodland homes of  
8 the vicinity. Congestion on the shoreline will be minimized through use of common  
9 docks, rather than a dock for each home. The vision is to create a master planned  
10 residential community that fits into the character of the Little Niangua Arm of the Lake  
11 of the Ozarks in a manner that accents the natural beauty of the area. I have attached as  
12 BB Schedule 3, a slide presentation of the vision document prepared by Folsom Ridge  
13 and submitted to Camden County in 2004 as part of the company's Preliminary Planned  
14 Unit Development application.  
15

16 **Q. I understand that the Preliminary Planned Unit Development application was part**  
17 **of the zoning approval process for the development. Would you explain the steps**  
18 **Folsom Ridge followed in securing the necessary zoning approval for the**  
19 **development.**

20 A. The steps for local land use approval Folsom Ridge followed were tied in large measure  
21 to the plan of development, something that evolved over time. Land use regulations  
22 were not adopted in Camden County until June of 2004. Prior to that time land could be  
subdivided without advance review and approval of Camden County. The plats of the

1 subdivisions on the Island were recorded prior to the adoption of the County land use  
2 regulations with the exception of Big Island PUD first filing and Island View Estates.  
3 Folsom Ridge's initial development plan was to improve the infrastructure for the Island  
4 and sell the existing platted lots to builders. Several options for development were later  
5 analyzed and the plan was updated over time to respond to market conditions.

6  
7 At the time Camden County's land use regulations were proposed, Folsom Ridge  
8 prepared a Master Plan for the Island to illustrate the intent for development over time.  
9 Camden County zoned Big Island for single family residential in 2004. Folsom Ridge  
10 platted the center of the Island prior to adoption of the county's land use regulations to  
11 establish a base line of density for future development. The Planned Unit Development  
12 (PUD) application for Big Island was prepared and processed using the baseline density  
13 as a starting point. The application for approval of the PUD Plan was submitted to the  
14 Camden County Planning Commission in November 2004 and was approved on January  
15 19, 2005. Representatives of the company met with the residents on Big Island  
16 throughout the fall of 2004 and revised the plans to respond to their concerns. The PUD  
17 was amended in 2006 to add a location for a pool and play area and two existing homes.  
18 Phase 1 of the final plat was recorded in September, 2006. In addition Folsom Ridge  
19 prepared and processed a preliminary plat for Island View Estates (the 190 acres on the  
20 adjacent mainland) through the Camden County Planning Department and recorded the  
21 final plat for that parcel in 2006.  
22

Q. As of now, how much of the development has been done?

1 A. The water and sewer systems to support all of the PUD "filing 1" development have been  
2 installed. Five out of the one hundred and twenty (120) planned villas have been erected  
3 and two others are under construction. The majority of the other improvements for PUD  
4 filing 1 are completed or nearly completed. These improvements include the utilities,  
5 access drives, docks, the marina site parking area, the pool and a picnic area. I would say  
6 that approximately 10% of the development is completed at this time. Remaining phases  
7 of the development will require extension of the water and sewer system and permit  
8 applications for those extensions are pending before DNR.

9  
10 Q. **Do you have photographs of the extent of the development for the Commission.?**

11 A. Yes, I do. I have attached to my direct testimony as BB Schedule 4 a series of sixteen  
12 slides that were taken between September 14 and 18, 2006 at (or above) Big Island.

13  
14 Q. **Are each of the slides a fair and accurate representation of the scene or condition**  
15 **they depict.**

16 A. Yes, they are. A description of the photograph is found in the caption section of the each  
17 slide attached as BB Schedule 4.

18  
19 Q. **With respect to the new dwellings on the Island, tell the Commission the price at**  
20 **which they are offered.**

21 A. When Folsom Ridge first purchased property on the Island it commenced a development  
22 program utilizing the existing subdivided lots and imposing covenants and restrictions at



1 the time of sale. The homes constructed on those sold lots are basically single family  
2 dwellings and sold in a range from \$220,000 to \$450,000.

3  
4 Regarding the PUD, the villas that are erected and under construction have been offered  
5 for sale between \$350,000 to \$375,000. The first villa was sold on November 17, 2006.

6  
7 **Q. Are the members of Folsom Ridge LLC also residents or part time residents on Big**  
8 **Island?**

9 **A. Yes, Mr. Golden and Mr. Rusaw are owners of a new home on the Island.**

10  
11 **Q. Ms. Brunk, you have referred to phases or first filings of the PUD. Could you**  
12 **explain the sequence of development for the PUD and what the total projected build**  
13 **out for the PUD is expected to be.**

14 **A. Big Island PUD is currently permitted for 120 units. We expect it to be developed in four**  
15 **phases over the next 5 to 7 years. The phases will be completed sequentially from north**  
16 **to south along the western shoreline of the Island. There are also existing, platted lots in**  
17 **the center of the island. We anticipate additional phases of the development to include**  
18 **portions of the center of the island. Reconfiguration of those lots will require an**  
19 **amendment to the PUD. The exact location and configuration of the future phases has**  
20 **not been determined at this time. For purposes of sizing the wastewater treatment facility**  
21 **and its expansion, a projected build out of 320 homes was used.**

22  
**Construction of the water and sewer systems on the Island**

1 Q. **Who designed the water and sewer system for the development on Big Island?**

2 A. Folsom Ridge has relied primarily on two professional engineering firms. Lake  
3 Professional Engineering Services, Inc. was involved in the initial design of the two  
4 systems and Krehbiel Engineering Inc. has been involved in the relocation of a water line,  
5 and the design of extensions and improvements to the systems.

6  
7 Q. **Can you explain the pipeline plan for the water and sewer service on the Island?**

8 A. Generally the water and sanitary sewer lines have been installed adjacent to the existing  
9 road on the Island. The water well and pressure tanks and the wastewater filtering  
10 system are located at a high point in the center of the Island. Mr. David Krehbiel will  
11 provide a description of the systems in detail in his separately filed direct testimony. Mr.  
12 McDuffey, the general manager of the company, will also describe the systems.

13  
14 Q. **Were existing homes and their water and sewer facilities taken into account in the  
15 design of the central water distribution and wastewater system.**

16 A. Yes, they were. Folsom Ridge did a general survey of the existing homeowners on the  
17 island and determined that there was an interest in future connection to a central water  
18 and central sewer system. Many of the existing homes on the Island are built on 50 foot  
19 wide lots and are served by individual wells and septic systems. Prudent planning  
20 indicated that Folsom Ridge should include provision for those existing homes to hook  
21 up to the systems as an alternative if their individual systems would fail or need to be  
22 replaced. From a planning point of view, this would also be a means of protecting the  
future environmental health and safety of the existing and future residents of the island.

1

2 **DNR permits**

3 Q. **Has the Missouri Department of Natural Resources (DNR) issued permits for these**  
4 **systems.**

5 A. Yes, the systems are presently operating under a Federal Discharge Permit and State  
6 Operating Permit # MO-0123013, and a public water supply permit MO-3031265. The  
7 permits have been issued in the name of Big Island Homeowners Association, Inc. Mr.  
8 Mike McDuffey will provide testimony regarding operation of the system and  
9 compliance with these permits.

10

11 Q. **Has DNR inspected the systems?**

12 A. Yes, DNR has been very much involved in the installation of these systems, as I explain  
13 below. It is my understanding that DNR has approved the construction of both systems  
14 and that both systems comply with the specifications set out in DNR's approved  
15 construction permits, initial and modified.

16

17 Q. **Has DNR issued notices of non compliance to Folsom Ridge regarding the operation**  
18 **or construction of the water or sewer systems?**

19 A. Yes, during the course of construction of the first phase of water and sewer line  
20 installation, DNR issued notices of violation to the company. DNR made an on site  
21 inspection of construction on April 23, 1999 and issued Notice of Violation #1315JC on  
22 May 25, 1999 for failure to construct water lines and sewer lines in accordance with  
23 approved plans. The contractor had installed a one inch line instead of a two inch line on

1 a small portion of the system. This problem was corrected by replacing the line with the  
2 appropriate size.

3  
4 A notice of violation was issued on August 8, 2003 in which DNR cited Folsom for a  
5 violation of the terms of Permit MO-0123013. The notice cited Folsom for construction  
6 of water distribution and sewer collection lines in the same trench without proper  
7 separation between the lines or proper fill material around the lines, failure to place the  
8 water distribution lines on a packed earth shelf and failure to construct water and sewer  
9 lines in accordance with the approved plans. This notice of violation was further  
10 investigated by Folsom Ridge and DNR in January of 2004.

11  
12 Q. **What did Folsom Ridge do in response to these notices of violation?**

13 A. Generally, upon notice of violation Folsom followed up to investigate the problem, hired  
14 the appropriate local engineer or contractor to assist with determining the appropriate  
15 solution and implemented a plan to resolve the issue.

16  
17 With respect to the first notice the line was replaced as requested.

18  
19 With respect to the second violation, Folsom Ridge entered a Settlement Agreement with  
20 the DNR. A copy is attached as BB Schedule 5. By its terms Folsom Ridge was  
21 required to pay a fine, provide plans and specifications for a solution to the problem and  
22 construct the necessary improvements to bring the system into compliance. These terms  
have been fully complied with.

1  
2 **Q. Has DNR issued other notices of violation?**

3 A. On May 13, 2005, DNR inspected construction of an extension to the water system and  
4 on June 28, 2006, issued Notice of Violation # 11210SW citing Folsom Ridge for causing  
5 or permitting construction, installation or modification of a community public water  
6 supply without written authorization.

7  
8 This construction project was the subject of an application for construction permit already  
9 on file with DNR but which had not been approved. Construction was started by  
10 mistake. Folsom Ridge thought in error that the permit had been issued and authorized  
11 the contractor to proceed. Construction of the extension was stopped until DNR  
12 approved the pending permit application and was finalized after receipt of the permit.

13  
14 Unrelated to the water and sewer system, DNR issued Notice of Violation # 10430SW on  
15 June 3, 2004 to Folsom for disturbing land without a land disturbance permit issued by  
16 the DNR. This notice involved work done by a Folsom contractor in connection with the  
17 erection of the dock. The water and sewer systems were not involved with this notice.  
18 The appropriate permit was obtained thereafter and work on the dock proceeded.

19  
20 **Q. Regarding the water and sewer systems, are there any DNR notices of violation that**  
21 **have not been resolved.**

22 A. To the best of my knowledge, all notices have been resolved to DNR's satisfaction.

1 Q. Earlier you referred to an initial member of Folsom Ridge, Mr. David Lees. Is he  
2 still a member of the company.

3 A. No, he is not. His interest in the company terminated in April of 2001.  
4

5 Q. What were his duties as a member or agent of the company.

6 A. Mr. Lees was responsible for oversight of the day to day operations of the development in  
7 Missouri. He was the "man in the field" and was the Folsom Ridge point of contact for  
8 many of the residents on the Island. He was also in charge of directing and supervising  
9 the installation of the water and sewer lines. Mr. Golden and Mr. Rusaw did not have  
10 direct involvement in the initial construction of these facilities. They were intended to be  
11 investment partners only.  
12

13 Q. Were any of the DNR notices of violation attributable to Mr. Lees?

14 A. Yes. Some time after Mr. Lees terminated as a member in the limited liability company,  
15 property owners on the Island, including I think some of the interveners in this case,  
16 submitted complaints to the DNR concerning the installation of the water and sewer lines  
17 at the Big Island project. Based upon those complaints, DNR issued a notice of violation  
18 to Folsom Ridge on August 8, 2003. DNR also continued an investigation which  
19 included drilling test holes to see whether or not the water and sewer lines were  
20 constructed in accordance with the approved plans and specifications and applicable  
21 regulations. When these test holes were dug on or about January 12, 2004, it was  
22 discovered that the water and sewer lines were in the same trench and had not been  
constructed in accordance with the approved plans and specifications or applicable

1 regulations. As a result, Folsom Ridge entered the Settlement Agreement, paid all fines  
2 and corrected the problem by installing a new water line in a separate trench. The initially  
3 constructed line was abandoned in place. It is the company's position that Mr. Lees  
4 directed the construction company to install the water and sewer lines in the same trench,  
5 in violation of applicable regulations of the Missouri Department of Natural Resources  
6 and also in violation of the engineering plans and specifications for the project.  
7

8 **Q. Is there litigation pending against Mr. Lees at this time?**

9 **A.** Yes, Folsom Ridge has filed suit against Mr. Lees in the Central Division of the United  
10 States District Court for the Western District seeking indemnification from him for the  
11 costs of correcting the improperly installed lines including the costs of replacing the line  
12 and other related costs.  
13

14 **System Operations.**

15 **Q. Which entity is operating and billing for the water and sewer systems at this time?**

16 **A.** The Big Island Homeowners Water and Sewer Association, Inc. is currently the  
17 responsible entity for operating the system and billing for service. The name of the  
18 Association was changed from Big Island Homeowners Association, Inc. The  
19 Association has been in existence since July, 1998.  
20

21 **Q. How long has the Association been operating the systems and billing for service?**

22 **A.** The Association has been operating the system since the first customers were connected  
23 in early 2000, and has been billing for services since January 2001 to date.

1

2 Q. Can you explain for the commission the significance of the declaration of covenants  
3 and restrictions that affect property on the island and the Association itself?

4 A. In order to provide for uniform governance of the water and sewer system available to  
5 Big Island residents, Folsom Ridge developed a set of recorded covenants and restrictions  
6 that apply to property sold by Folsom Ridge to new owners and to those who voluntarily  
7 agreed to the terms of those covenants. I am not an attorney and do not intend to  
8 interpret the covenants but will say that the covenants and restrictions generally govern  
9 the connection to and use of the water and sewer system on the Island. The Association  
10 and its role in that governance is spelled out in the document. The last and current  
11 restatement of the Covenants and Restrictions is attached to my testimony as BB  
12 Schedule 6.

13

14 Customers of the systems at this time.

15 Q. How many sewer customers and water customers are connected to the systems at  
16 this time?

17 A. There are currently sixty-one (61) customers receiving sewer service and forty-eight (48)  
18 customers receiving water service.

19

20 Q. Are there residents on Big Island who have paid a connection or tap on fee but have  
21 not yet connected to the system?

22 A. Yes, there are thirty three (33) households who have paid a connection or tap fee but who  
3 have not connected.



1

2 Q. **Is there a contract operator for the systems at this time?**

3 A. Mr. Michael McDuffey of Lake Ozark Water and Sewer L.L.C. (LOWS) is under  
4 contract for the operation and maintenance of the system. His company provides all  
5 periodic maintenance services, testing services and reporting required. LOWS has agreed  
6 to continue those duties and responsibilities under contract with Big Island Water  
7 Company, Inc. and Big Island Sewer Company, Inc. (the 393 Companies) upon transfer  
8 of the water and sewer assets pursuant to the transfer agreement attached to the  
9 Application in Case No. WO-2007-0277.

10

11 Q. **What are the current rates for service?**

12 A. The rates for sewer service are \$15.00 per month and the rates for water service are  
13 \$10.00 per month. Members of the Association who are not connected to the systems are  
14 billed a charge of \$5.00 per month for water and \$5.00 per month for sewer. These latter  
15 charges are not for utility services but rather to cover costs of making facilities available  
16 for connection and maintaining those facilities. The rates had been billed on a quarterly  
17 basis until July, 2006 when monthly billing commenced.

18

19 **The application**

20 Q. **Why has Folsom Ridge and the Association filed the application to transfer the**  
21 **water and sewer system assets?**

22 A. The object of this application is to settle controversy raised by the complaints in Case No.  
} WC-2006-0082 and to end the arguments over the manner by which water and sewer

1 services are supplied on the Island. Folsom Ridge earlier formed Big Island Water and  
2 Sewer Company, Inc, and filed an application for certification in Case No. WA-2006-  
3 0480 for these same purposes. The complainants intervened in that case and objected to  
4 the formation of a regulated company as well. During that proceeding residents receiving  
5 service on the Island, and others, expressed interest in locally owning and operating both  
6 systems. Because of that interest, Folsom Ridge and the Association were willing to  
7 pursue negotiations and ultimately they agreed on the transfer. It is my understanding  
8 that the 393 Companies are not subject to PUC regulation and would not be subject to  
9 complaints like those filed in Case No. WC-2006-0082.

10  
11 Q. **Can you describe the highlights of the transfer agreement?**

12 A. Mr. Rick Rusaw will describe the main points of the agreement in his separate testimony.

13  
14 Q. **How will the public be benefited by the approval of this application?**

15 A. I believe the public will be benefited by the conclusion of the complaints about Folsom  
16 Ridge and the Association providing the services. The existence of these complaints  
17 affects the land values on the Island and can lead to confusion about water and  
18 wastewater services. None of the existing customers of the system will see a change in  
19 the manner in which service is provided. Mr. McDuffey will continue as the operator of  
20 the system as before. The rates for service will be less than what was proposed by the  
21 Staff and the applicant in Case No. WA-2006-0480 but will be more than what the  
22 Association is charging at this time; still those rates are very reasonable. The persons  
connected to the system should also be benefited by local management and control of the

1           systems. There will be no detriment to the public by transfer of these facilities to the 393  
2           Companies.

3

4    Q.    **Does this conclude your direct testimony?**

5    A.    Yes.

**Resource Conservation Partners, LLC**

P.O. Box 1522  
Longmont, CO 80502  
303.532.2262  
303.702.0585 fax  
[barbb@dgmlc.com](mailto:barbb@dgmlc.com)

**BARBARA BRUNK**

*Landscape Architect, Manager*

**EDUCATION AND SPECIAL TRAINING**

Master of Landscape Architecture, University of Colorado at Denver, 1992  
B.S., Environmental Horticulture, University of Connecticut, 1977

**QUALIFICATIONS**

Ms. Brunk has been involved in the design and implementation of public and private sector environmental resource management and land development projects since 1978. She represents municipal and private sector clients. She manages a full range of projects from the design of small gardens to parks and open space master plans for entire communities. She brings a commitment to excellence and an awareness and understanding of the opportunities and constraints associated with Colorado's unique setting and semi arid environment to all projects. Her expertise includes:

- Coordinating all aspects of environmental resource management and land development projects including site assessment, site design, landscape design, restoration and revegetation plans, map and report preparation, permitting, presentation graphics, and neighborhood liaison.
- Preparing open space preservation and landscape design guidelines for communities and planned unit developments.
- Preparing Parks, Open Space, Trails and Recreation Master Plans and Comprehensive Plans for small communities.
- Designing mined land reclamation projects to enhance wildlife habitat and potential for conservation or recreational use.
- Facilitating public workshops and serving as community and government liaison.
- Representing clients before neighborhood groups, boards and commissions.
- Providing land development review for small communities. Designing parks, residential neighborhoods, streetscapes, commercial developments, and small private gardens.
- Preparing construction documents for parks, residential and commercial landscapes.

**RELEVANT EXPERIENCE**

**Gravel Mining Reclamation Design and Permitting, Northern Colorado Front Range** – Barbara has been managing gravel permitting projects for Golden Gravel Company, Hall Irwin, Aggregate Industries, and Andesite Mining Company for many years. Projects range from 80 to 500 acres and are located in Boulder, Weld, Adams and Larimer Counties. Her responsibilities include initial evaluation of the resource and the site; preparation of mining and reclamation plans and associated permit documents and facilitation of the public review process. She has experience with all associated local, State and Federal permitting requirements including air quality emissions, storm water discharge, mined land reclamation,

Landscape Architecture • Planning • Land Management

BB Schedule 1

US Army Corps of Engineers 404 permitting and flood plain development

**Dry Creek Restoration and Greenway, Longmont, Colorado** – Barbara was part of the design team for this flood protection, stream restoration and pedestrian greenway project. The project integrated restoration of a chanelized irrigation channel with public greenway and trail system. It involved a cooperative effort between the St. Vrain Valley School District, City of Longmont and private landowners

**Centennial Master Plan, Hall Irwin Corporation, Milliken, Colorado** – Barbara was project manager for this 2,500 acre mixed use development in Milliken Colorado. Her responsibilities included facilitating the community design charrette, site design, preparation and processing of annexation, zoning and platting applications. This project will add approximately 5,000 residential units, commercial and industrial development to an existing small community in northern Colorado. The challenge was to integrate the new development into the community without losing the small town, rural character of the existing Town. To date 1,300 lots have been platted including one neighborhood park and four pocket parks.

**Johnstown/Milliken Parks, Trails, Recreation, and Open Space Master Plan, Town of Milliken, Colorado** – Barbara is the project manager for this cooperative effort to plan for future parks, trails and open space within the Johnstown and Milliken planning areas. The project was funded through a joint effort of the towns and a grant from Great Outdoors Colorado. Her responsibilities included facilitation of community workshops, and leading a team effort to prepare the master plan. The document sets forth design standards for parks and trails. It also includes goals, policies and strategies to guide development of a comprehensive system of parks, trails and open space as the communities develop.

**Miners Park, Town of Frederick, Colorado.** Barbara was project manager for development of a master plan and phase one construction documents for this 30-acre community park in Frederick Colorado. The park is a multi purpose facility that will also function as a regional detention pond. She assisted the Town in obtaining grant funding from Great Outdoors Colorado and facilitated a design charrette to get community input on the plan. The park will include community gathering spaces, open play areas, an arboretum, wetland and environmental education trails and interpretive signage and a small children's fishing pond.

**Frederick Comprehensive Plan and Land Use Code, Frederick Colorado** – Barbara was part of a team that prepared the Comprehensive Plan and Land Use Code for this small community in southwest Weld County, Colorado. Her responsibilities included facilitation of community workshop discussions regarding parks, open space, and landscape design standards and preparation of the relative portions of the documents. The documents integrate text, photographs and graphics to clearly convey the intent and illustrate the design concepts and regulations.

**Reginald V. Golden**  
Longmont, CO 80503

**WORK EXPERIENCE**

- 1999-Present Diamond G Enterprises, Longmont, CO**  
Property Management - Manage over \$20 million worth of properties including farm leases, mining leases and residential leases.  
Real Estate Development - Constructed \$2.5 million 3-story office building and pre-leased all office space, developed a residential subdivision containing over 100 lots, sold lots, built houses and managed project.  
Fuel Stations - Owner and developer of three service stations with convenience stores and food service, one is a full service truck stop. Sales are approximately \$12 million per year.
- 1999** Sold all operations of these remaining companies to largest competitor.
- 1989-1999 Golden's Companies President, Longmont, CO**  
Overall management of Golden's Companies, including Golden Gravel, Golden Supply, Golden Concrete, and Golden Construction.  
Took Construction business from 3 million a year in sales to 9 million. Sold construction business in 1994.  
Took Concrete business from 30 trucks and 2 plants to 135 trucks and 14 plants. Established as price leader in Denver Metro Market containing two large multi-national competitors. Concrete Company poured 100,000 cubic yards in 1990 and 1 million cubic yards in 1999.  
Produced over 300,000 cubic yards at new Denver International Airport.  
Started portable plant division  
Employees grew from 95 to 350.  
Gravel Company - grew proportionate to concrete company.  
Negotiated and purchased a rock quarry separate from sand and gravel business.  
Prepared and presented mining proposals to local and county governments, State and Federal governments for approvals.  
Managed all water augmentation plans.  
Developed 1<sup>st</sup> ever local Master Plan for all properties we owned. Received long-term mining permit from County.
- 1988-1989 Golden's Companies Vice President Sales and Marketing**  
Responsible for all sales and marketing activities; approved all construction proposals, concrete pricing, and sand and gravel pricing. Supervised 8 full time salesman and estimators.  
Landed first 3 million-dollar job in company history, expanded construction division into concrete paving, realized first concrete average price raise since 1984.
- 1986-1988 Golden's Companies Supply Division**  
Research start and manage the Retail Supply Division selling related concrete and masonry items to contractors.  
Started company with one employee. Established all policies and procedures, established purchasing system. Responsible for all outside sales - grew sales from 0 to 2.5 million in just under two years.
- 1986-1987 Golden's Companies Construction Division**  
Bidding and managing underground earthwork and utility installation.  
Landed companies first bonded job with Morrison Knudsen at IBM plant. Managed several small subdivision installations.

- 1985-1986      Golden's Companies Concrete Division**  
Concrete Company Superintendent responsible for all day-to-day activities of Concrete Company.  
Supervised approximately 30 people including dispatch, truck drivers, etc.  
Installed new state of the art computer dispatch system, maintained profitability in market in recession.
- 1982-1984      Panhandle Concrete, Amarillo, TX**  
Truck driver delivering ready-mix concrete.  
One of two employees capable of performing any task in the Ready Mix industry, i.e., load batching, running loader, driving truck.
- 1978-1981      Golden's Companies, Longmont, CO (Summer Help)**  
Scale operator, truck driver, install sewer and water lines, mechanic's assistant.

### **EDUCATION**

West Texas State University, Canyon, Texas  
BA Business with emphasis in Finance, Marketing and Management  
Listed in Who's Who in American College Students - 1985

Graduate Niwot High School, 1981  
Listed in Who's Who in American High School Students - 1981

### **PROFESSIONAL DEVELOPMENT**

AGL Executive Management Course  
Mountain States Employers Council Executive Management Course  
Dale Carnegie Training  
Listed in Oxford Who's Who - 1991-1992  
Outstanding Young Man of America - 1987

### **PROFESSIONAL MEMBERSHIPS**

Beckwith Ditch & Reservoir Co. - President  
Mountain States Employers Council  
NRMCA Marketing Committee  
International Order of Denolay  
EDAL - Board Member  
Colorado Ready Mix Association - President, 1998  
Longmont Chamber of Commerce  
American General Contractors  
Colorado Contractors Association

**RICK RUSAW**  
**LifeBridge Christian Church**  
**Longmont, CO 80503**

**EMPLOYMENT**

September 1991  
to Present

Senior Minister, LifeBridge Christian Church, Longmont, Colorado. Responsibilities include preaching, teaching-staff oversight, development, and leadership.

**Major accomplishments:** Attendance growth from 649 to 3,300. Giving income increased from \$600,000 to \$4.2 million. 85% of new members are new Christians.

January 1987  
to December 1991

Vice President, Cincinnati Christian University, Cincinnati, Ohio. Part of three-member team brought in for turnaround of college.

**Major accomplishments:** Administrated and implemented restructuring of management organization. Developed and implemented funding strategy that increased annual giving income from \$800,000 to \$1.8 million. Developed and implemented recruitment strategy that produced five consecutive record enrollments (first year, 62% increase). Assisted in producing five consecutive years in black after ten consecutive years in red. Assisted in reducing total indebtedness from \$6.5 million to \$3 million. Assisted in school achieving North Central Regional Accreditation. Developed and implemented plan for broadened alumni participation and support.

October 1986  
to January 1987

Director of Development, Cincinnati Christian University.

1982 to 1987

Associate Minister, First Christian Church, Fort Myers, Florida. Responsibilities included education, membership development, and administrator.

1980 to 1982

Northeast Regional Director/Evangelist, Christ in Youth, Inc.

1977 to 1980

Student Representative, Admissions Department, Cincinnati Christian University.



**EDUCATION**

- ? Master of Arts, Cincinnati Bible Seminary, Cincinnati, Ohio, 1990
- ? Bachelor of Science, Christian Ministries, Cincinnati Christian University, 1980
- ? Regents Diploma, Liverpool High School, Liverpool, New York, 1976

**ADDITIONAL EDUCATION**

- ? Syracuse University, Oswego State University, various management seminars and courses, variety of ministry-related (church growth, counseling, education, youth) classes and seminars.

**OTHER INVOLVEMENTS**

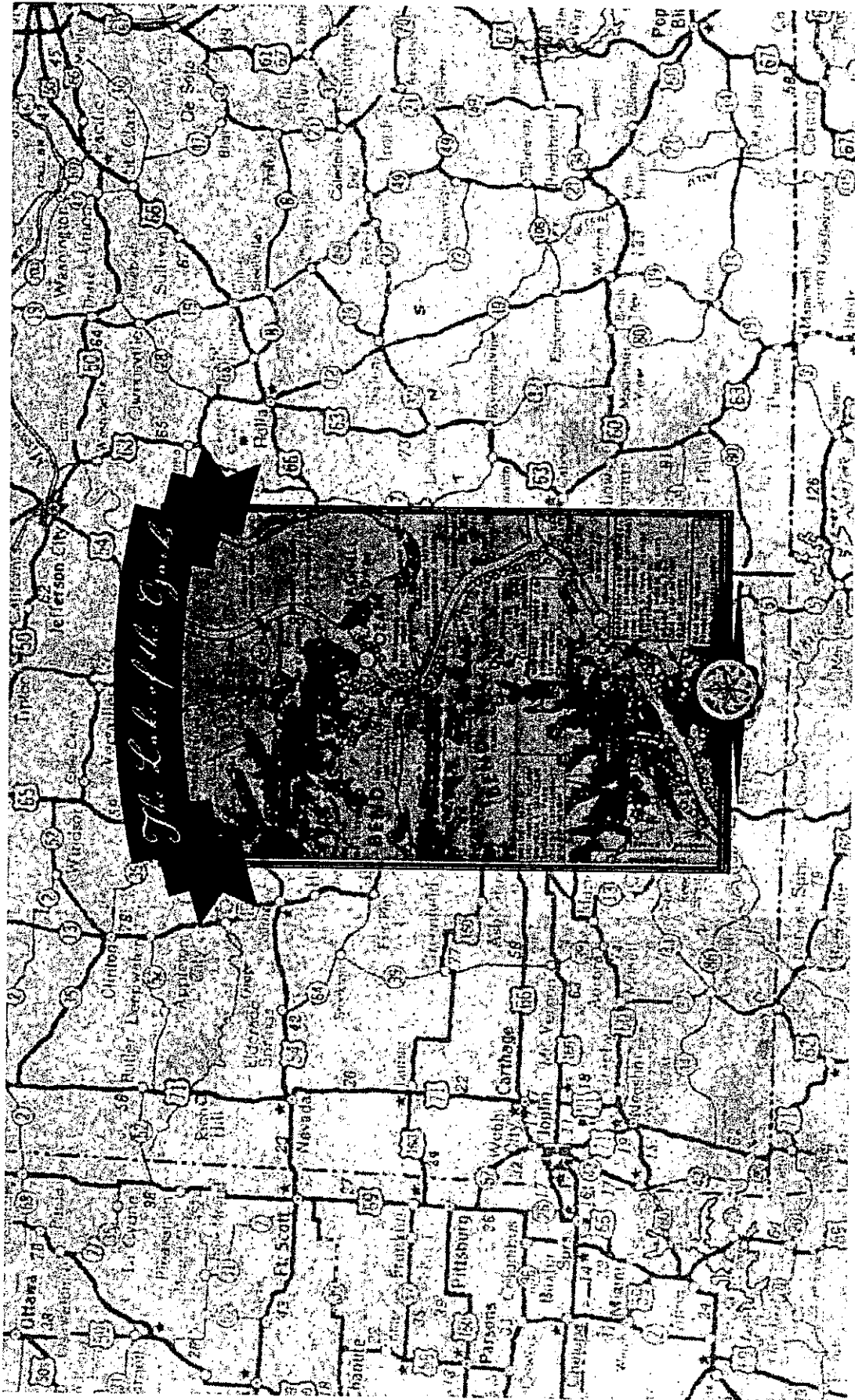
- ? On-air host for Worship on the PAX Television Network.
- ? Board member for Hope International University, Fullerton, California.
- ? President of Outlook America, which provides care for mentally retarded and developmentally disabled individuals in four states.
- ? Board member for The Christian Network, Inc., Clearwater, Florida.
- ? President, RDR Resources, a consulting company that provides CEO coaching, management training, venture capital acquisition, and personal development.
- ? Consult with both nonprofit and for profit ventures in the U.S. and abroad.
- ? Board member of Concepts Direct, a Longmont-based company.
- ? Board member for Milligan College, Milligan, Tennessee.
- ? Managing Partner Tiznow Ventures—real estate holding
- ? Managing Partner Folsom Ridge—real estate development

**AUTHOR**

- ? *60 Simple Secrets Every Pastor Should Know*, Group Publishing
- ? *Externally Focused Church*, Group Publishing
- ? *Life on Loan: Finding Grace at the Intersections*, Standard Publishing



BB Schedule 3



BB Schedule 3



# Big Island

## Community Vision

Big Island is a community founded on respect for the natural environment. It will embrace the peace and serenity of the lake while celebrating all the opportunities for passive and active recreation.

Well-maintained homes will be tucked into the hillsides overlooking the lake and nestled into the trees.

Preservation of the native vegetation will be carefully monitored.

New plantings of native species will anchor the new homes and provide a transition between the developed areas and the existing woodlands.

Congestion of the shoreline will be reduced by the use of common docks between homes, instead of a dock in front of each home as has historically occurred.

The architectural character will be reminiscent of the historic lakefront and woodland homes in the area.

Homes and amenities will cater to residents who want to enjoy everything the area has to offer. A homeowners association will maintain the homes, yards, docks and shovel snow.

A trail along the shoreline and rustic paths through the woods will connect the neighborhood and provide opportunities to view the abundant wildlife on the island.

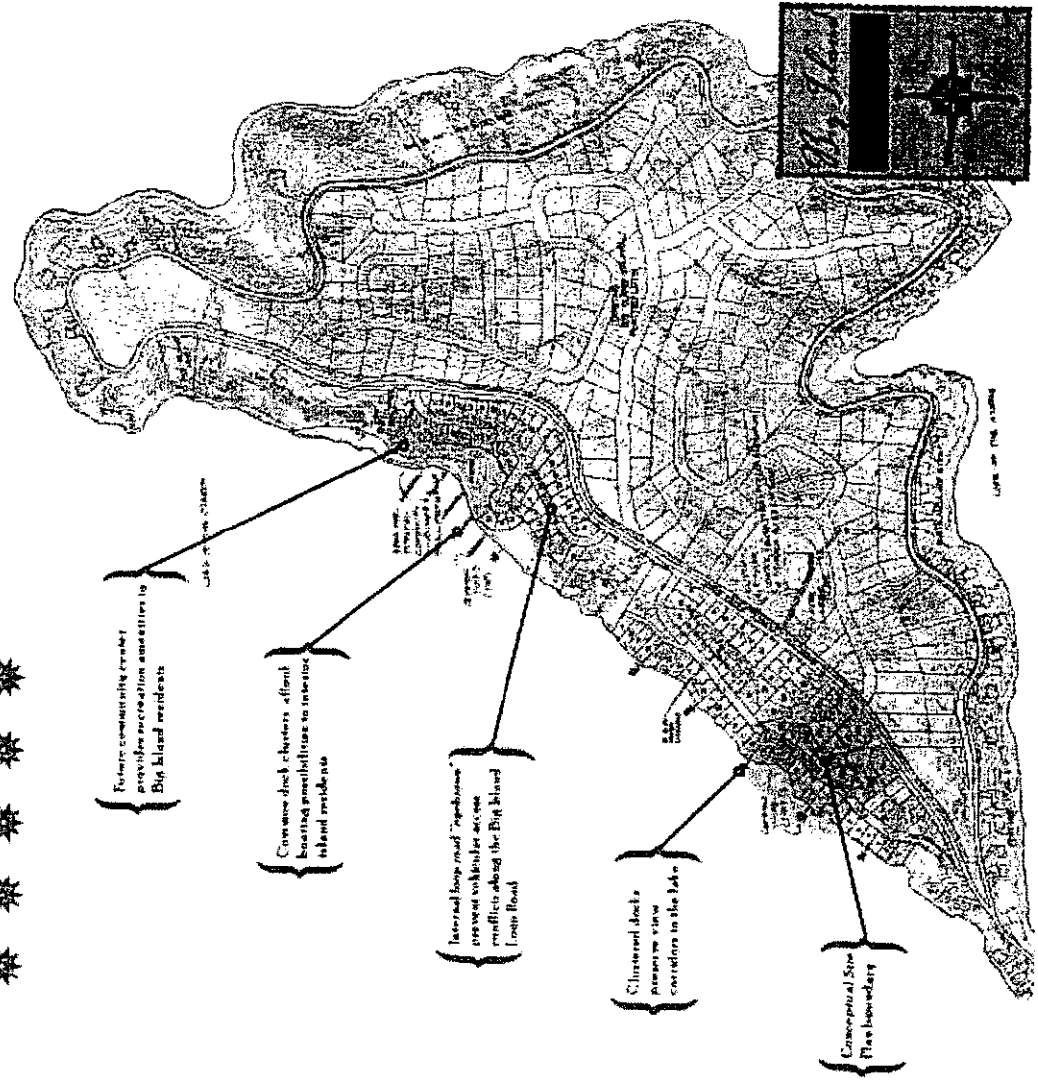
Residents will have the best of both worlds – the peace and beauty of the lake and woods, and access to the water. They will have time to enjoy active summer week ends, quiet weekday mornings, and holiday gatherings with friends and family. They will know the peace and quiet of the fall and winter months and anticipate how the lake will come to life again in the spring.

Page 2

# SITE PLANNING



The development of homesteads at Big Island begins with a respect and concern for the natural environment. Individual site layouts, architecture, and introduced landscapes must work in concert with rich woodland forests, steep topographic conditions, and the existing built environment to create an integrated and harmonious community. Rather than being viewed as a series of individual homesteads, the Big Island Site Plan is characterized by a series of neighborhood clusters or enclaves that are linked together by a ring road. It is considered part of the cohesive fabric that weaves together the places where people live with community amenities and the lake edge. A greater relationship can be achieved between the natural and built environments by clustering the placement of the structures. A Site Plan that respects the environment and grows organically by responding to various site conditions, including grade changes, significant tree clusters, rock outcroppings, view orientations, and existing development, contributes positively to the image of Big Island as a community that pays tribute to the "Great Outdoors" by deferring to nature.



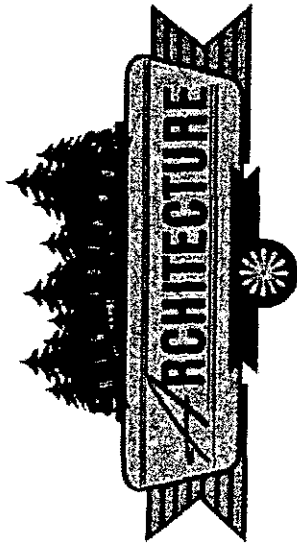
BB Schedule 3



# *Concentrated Life Plan - Cluster Neighborhood*

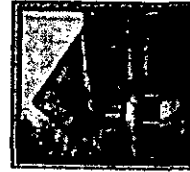
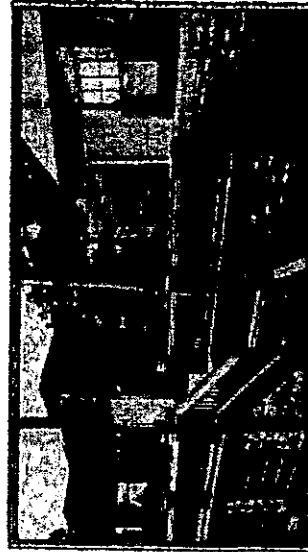
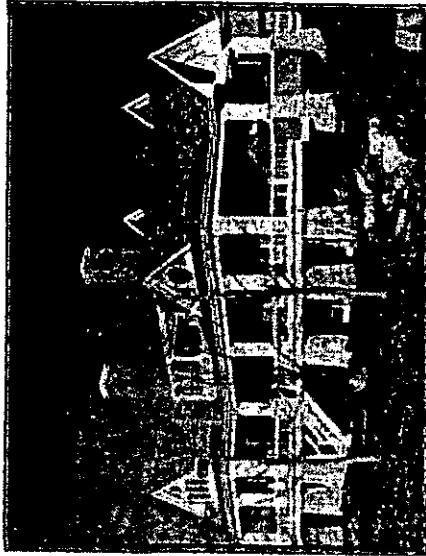
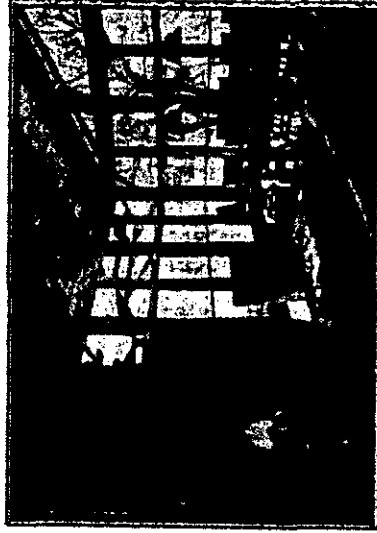




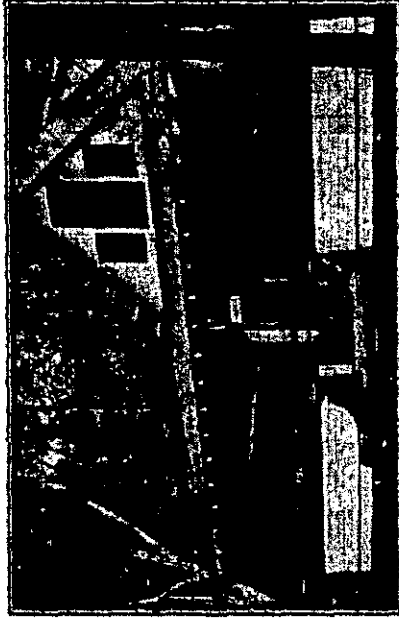
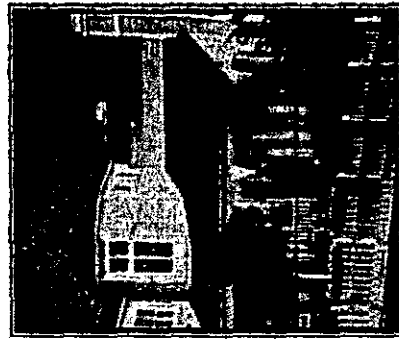
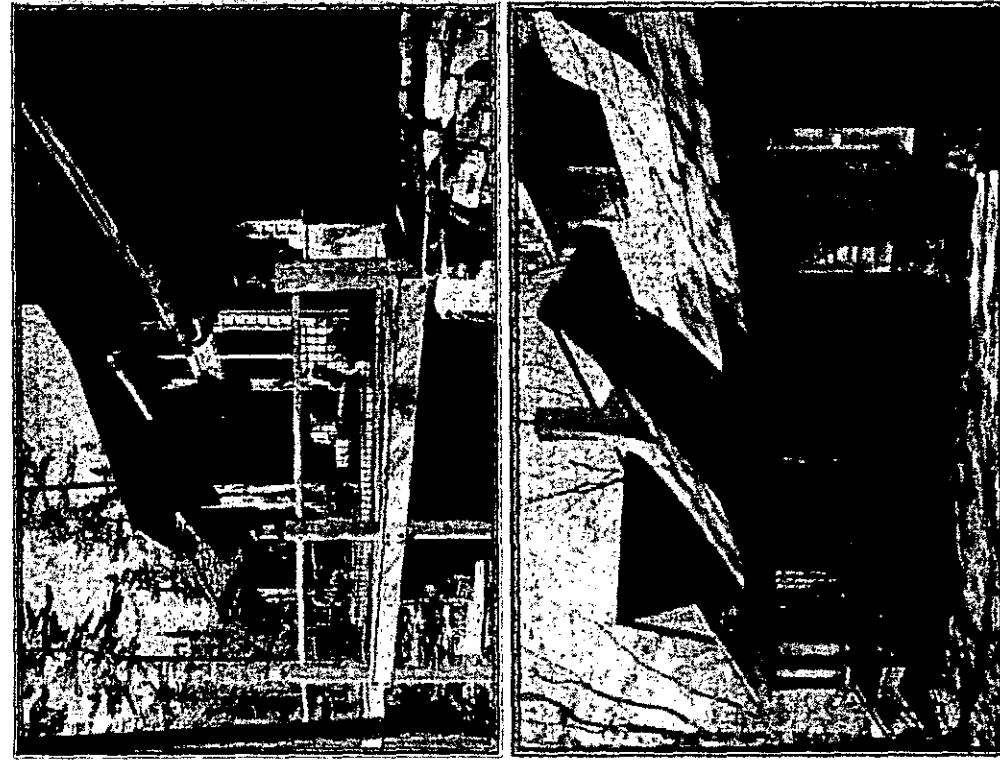


The architectural character of the Big Island was born out of a philosophy that buildings should harmonize with the natural landscape. Oak architecture is often simple, built, rugged, rustic, and in tune with nature. Traditionally, Oak architecture was utilitarian, characterized by taking camps and vacation homes that were built, constructed, and ornamented using indigenous building materials integrated with the natural environment. These early structures were commonly constructed of rugged materials that included stone pulled from the water or nearby fields (fieldstone) - used for foundations, structural piers, and chimney stacks - rustic shingle and clapboard siding, and robust timber posts and beams.

It is envisioned that the architectural tenets crafted for Big Island will be sensitive to Missouri's lakefront past, where indigenous and inherited styles such as Shingle, Farmhouse, and Traditional have successfully blended with local traditions to produce a homegrown architecture that is sensitive to the natural environment. These styles embody the spirit of Big Island through their adaptation to varied natural settings that range from the lake edge to deep woodland forests. The ultimate goal is to craft an image that is sensitive to Missouri's lakefront architectural past by creating a unifying palette of styles rooted in the vision of the "Great Outdoors."



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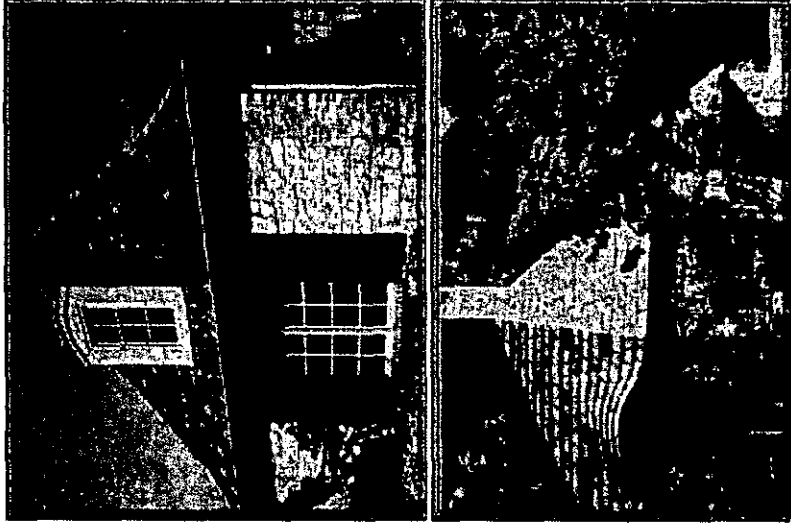
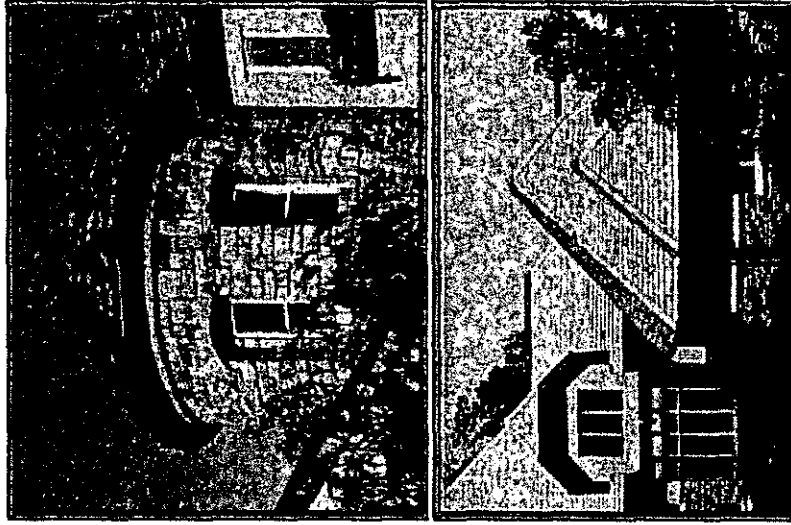


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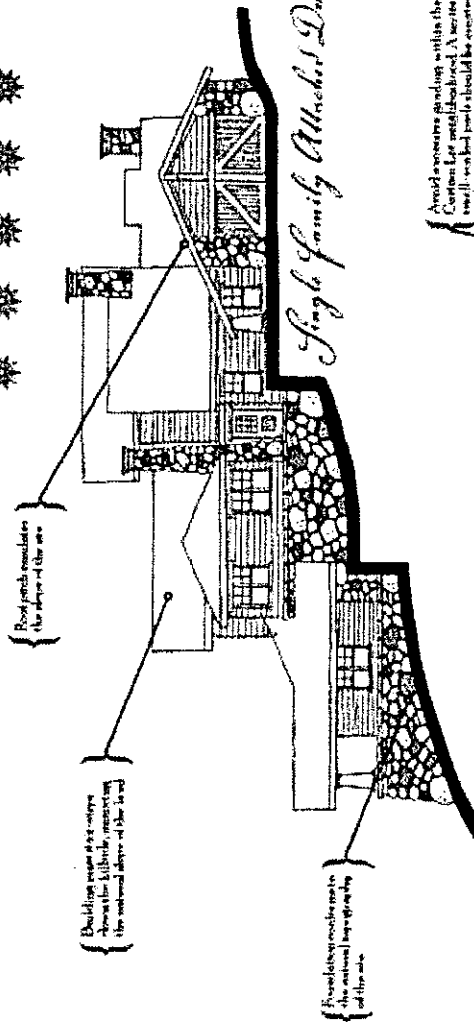
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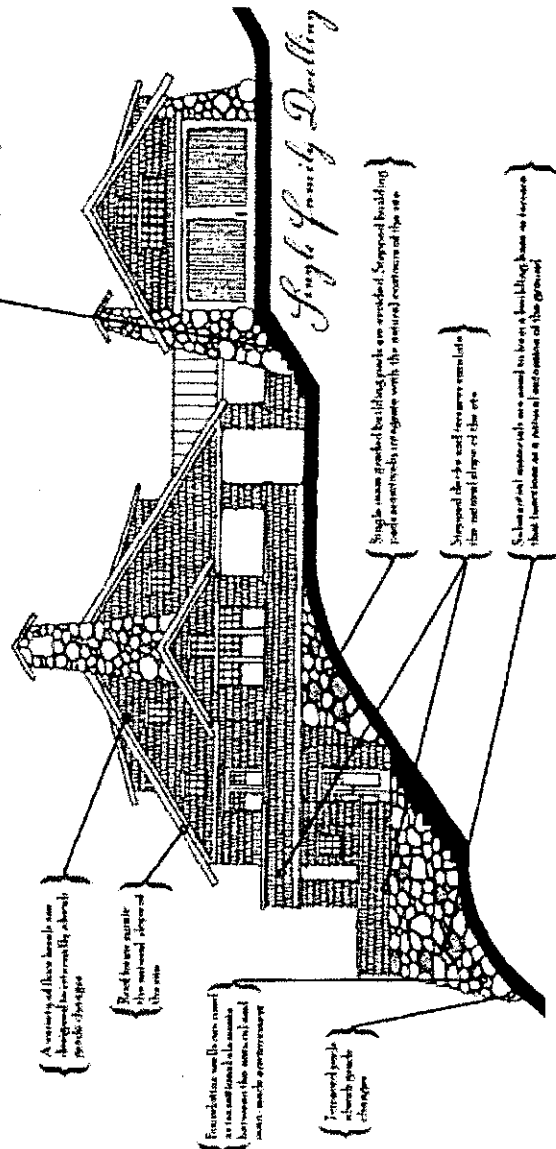


*Handwritten text, possibly a signature or address, written in cursive script.*



*Single Family Attached Dwellings*

Avoid excessive grading within the context of the site. A series of small-scale grade changes is preferred.



*Single Family Detached*

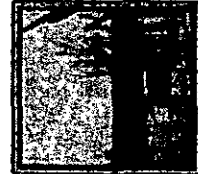
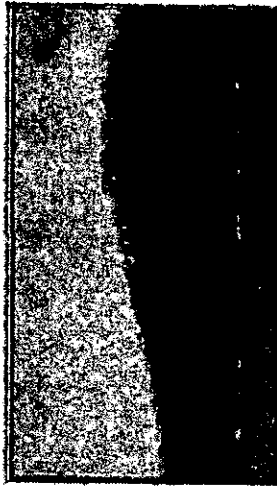
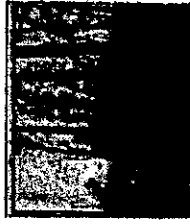
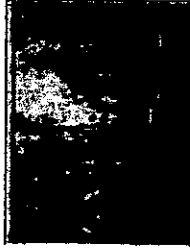


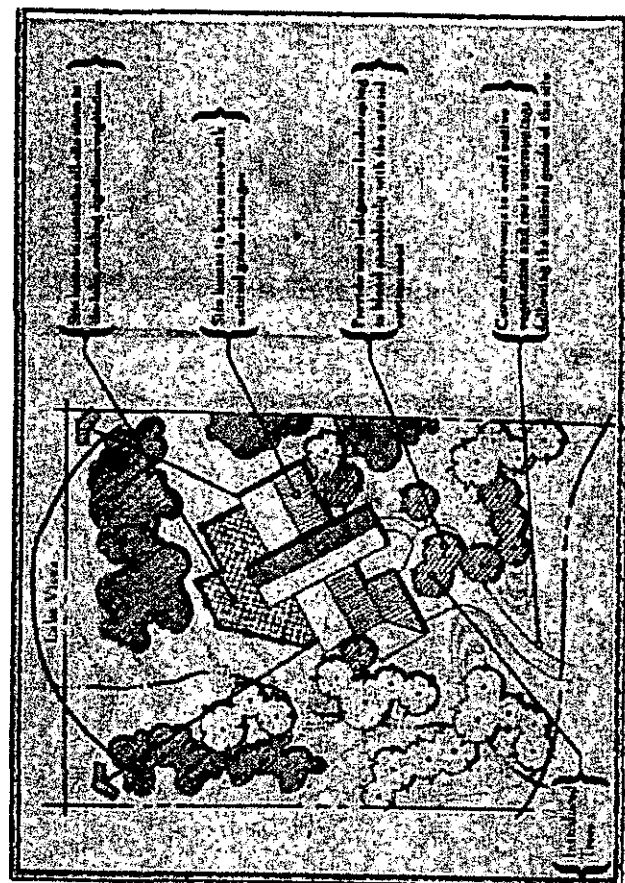
Big Island is a study in contrasts, characterized by rich topographic conditions that range from gently rolling hillsides to steep wooded bluff edges. When these existing landforms must be altered as part of the construction process, the altered areas should be re-created in a fashion that replicates the existing natural contours of the site. It is also envisioned that Big Island architecture will work in concert with these unique natural conditions by setting homes sensitively into the environment. Creating a series of small-scale steeped building pads designed to absorb grade changes, excessive grading can be avoided, sensitively integrating the home into the natural contours of the site. In addition, the design of the home itself can effectively harmonize with sloping site conditions through the inclusion of a variety of internal floor levels that absorb grade changes within the dwelling. Roof forms can also be pitched to imitate natural slope conditions, ultimately creating a home that is in tune with nature.



The rugged wooded atmosphere of Big Island coupled with its beautiful lakefront environment and secluded setting compose an unsurpassed natural sanctuary that makes this community one of the most desirable retreats within the Lake of the Ozarks region. Thus, every effort should be made to protect the unparalleled beauty found in this unique island setting. The goal in the development of each home site is that it appear as if the land had never been disturbed. It is envisioned that all home site development should respect and defer to, rather than dominate, the natural environment. The intent is that all home sites, introduced landscaping, and natural open space areas be woven into a unified natural landscape that blends with both the built and indigenous environments. The objective is to preserve as much of the existing natural landscape as possible. To this end, techniques must be employed to preserve significant areas of open space for the enjoyment of the public, coupled with a thoughtful approach in creating naturalistic-surrounding private landscapes.

The design for Big Island envisions the incorporation of natural features such as Dogwood tree stands, drainage swales, and rock outcroppings into individual home sites. Integrating these features on a site-specific basis can result in a better harmony between the built and natural environments by providing a direct connection with the out-of-doors.



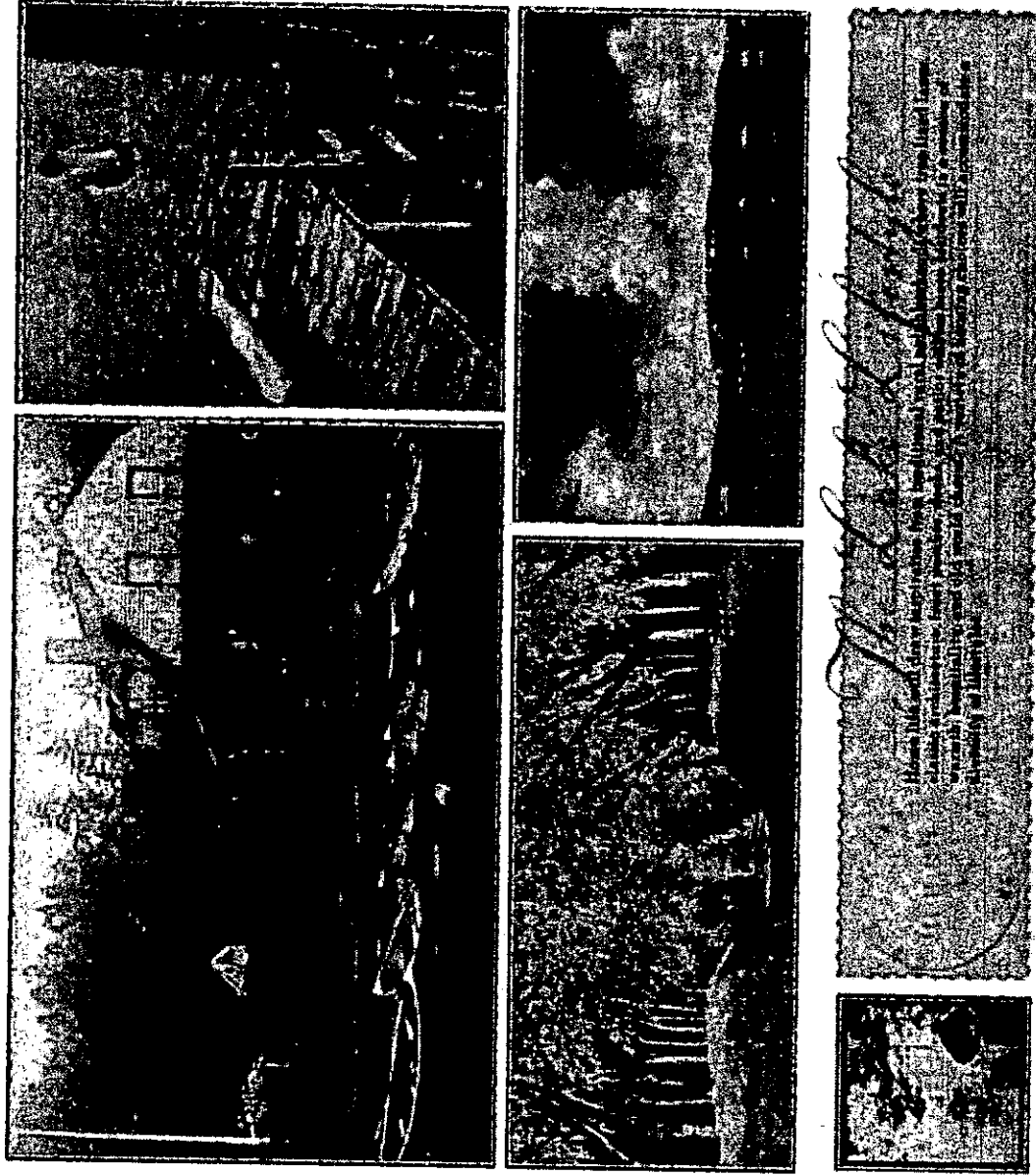




I started with a desire to create a new standard of living that encapsulates the image of the "Great Outdoors". It started with the longing for past communities: building upon past traditions of classic fishing camps and summer vacation homes. It started with a vision to create a community that promotes the values of yesterday, creating a living environment that becomes a respite from the everyday work place, a haven that balances home life with the wonders of nature and ample recreation opportunities. Big Island achieves a new direction in the evolution of the American dream. Conceived from the start as a community in tune with nature, Big Island embraces the ideals of rural life, a pastoral tapestry of indigenous architecture, rich woodland forests, winding country roads, neighborhood footpaths, and the marvel of the pristine Lake of the Ozarks!

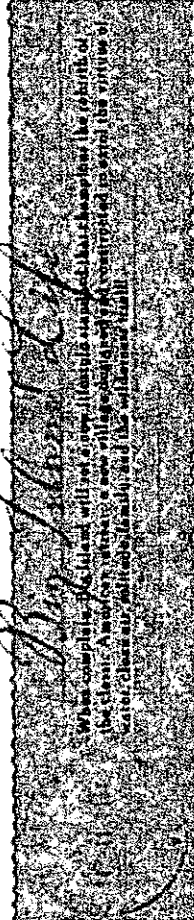
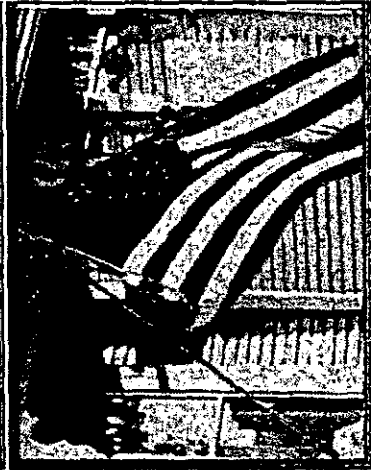
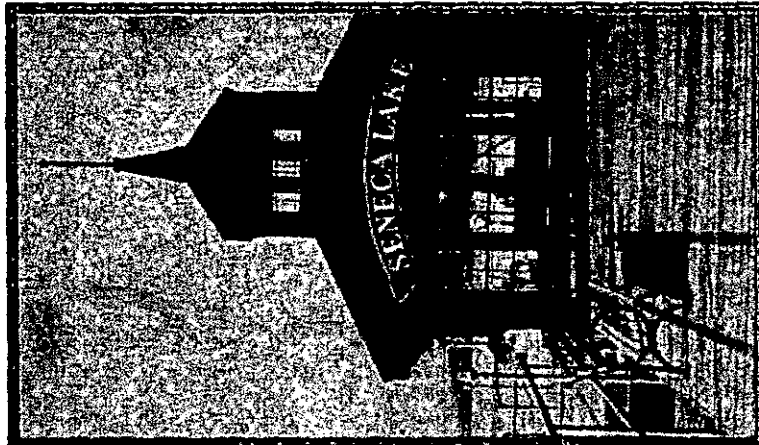
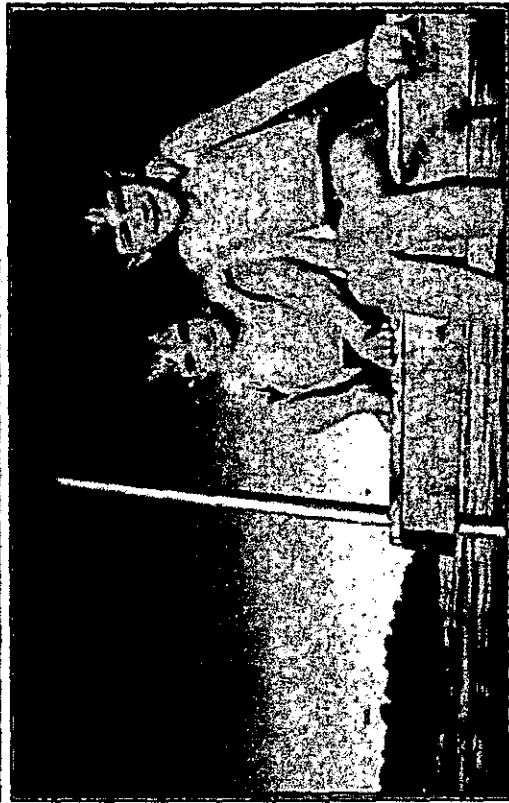
Building upon the legacy of the land, Big Island offers an abundance of amenities that provide both passive and active recreational opportunities for community residents. Passive pursuits range from intimate nature walks among wooded forests, to strolling along the lake edge, to the proverbial tin roofing! Active pastimes at Big Island include swimming, boating, and water skiing, just to name a few!

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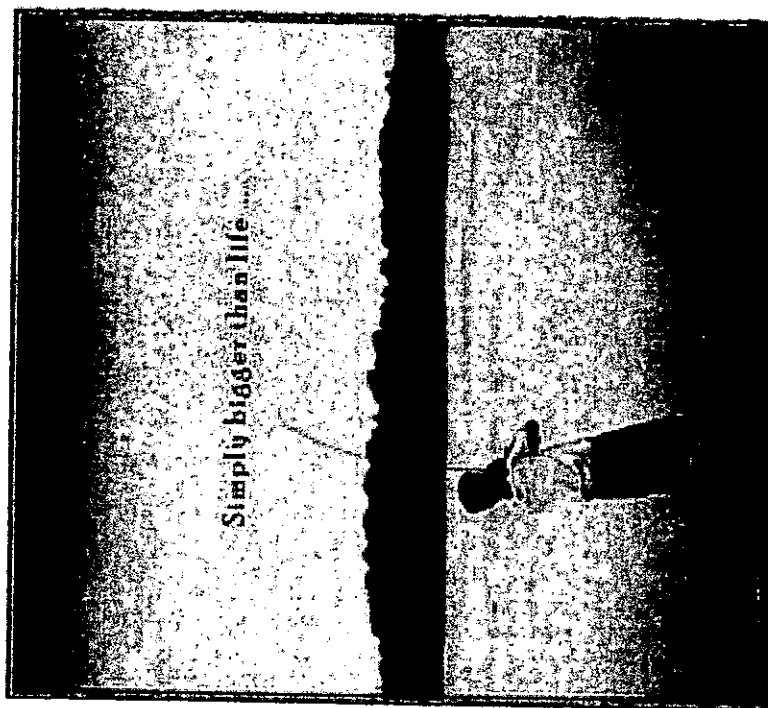


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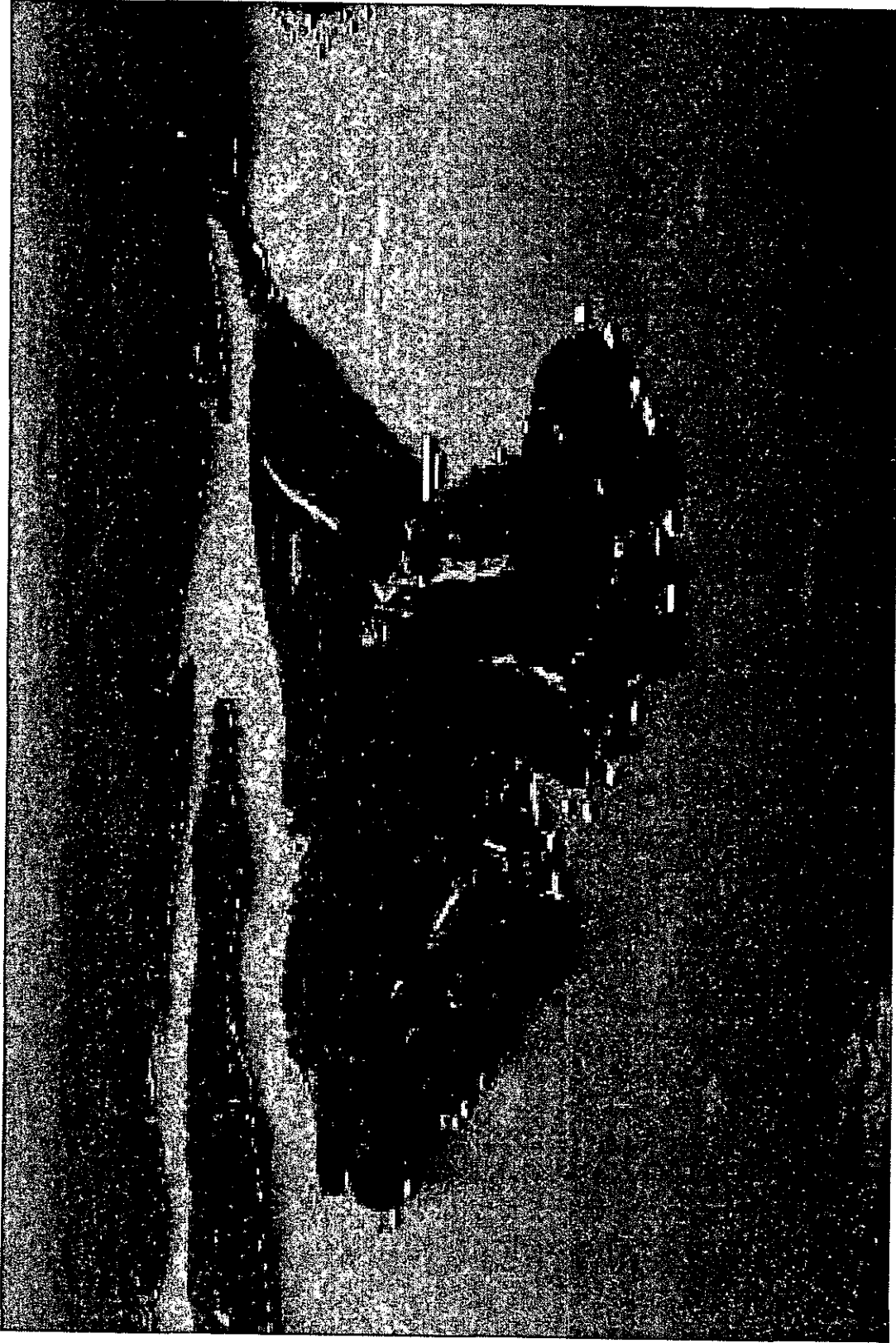


This is an aerial view of Big Island and the immediate vicinity.



BB Schedule 4

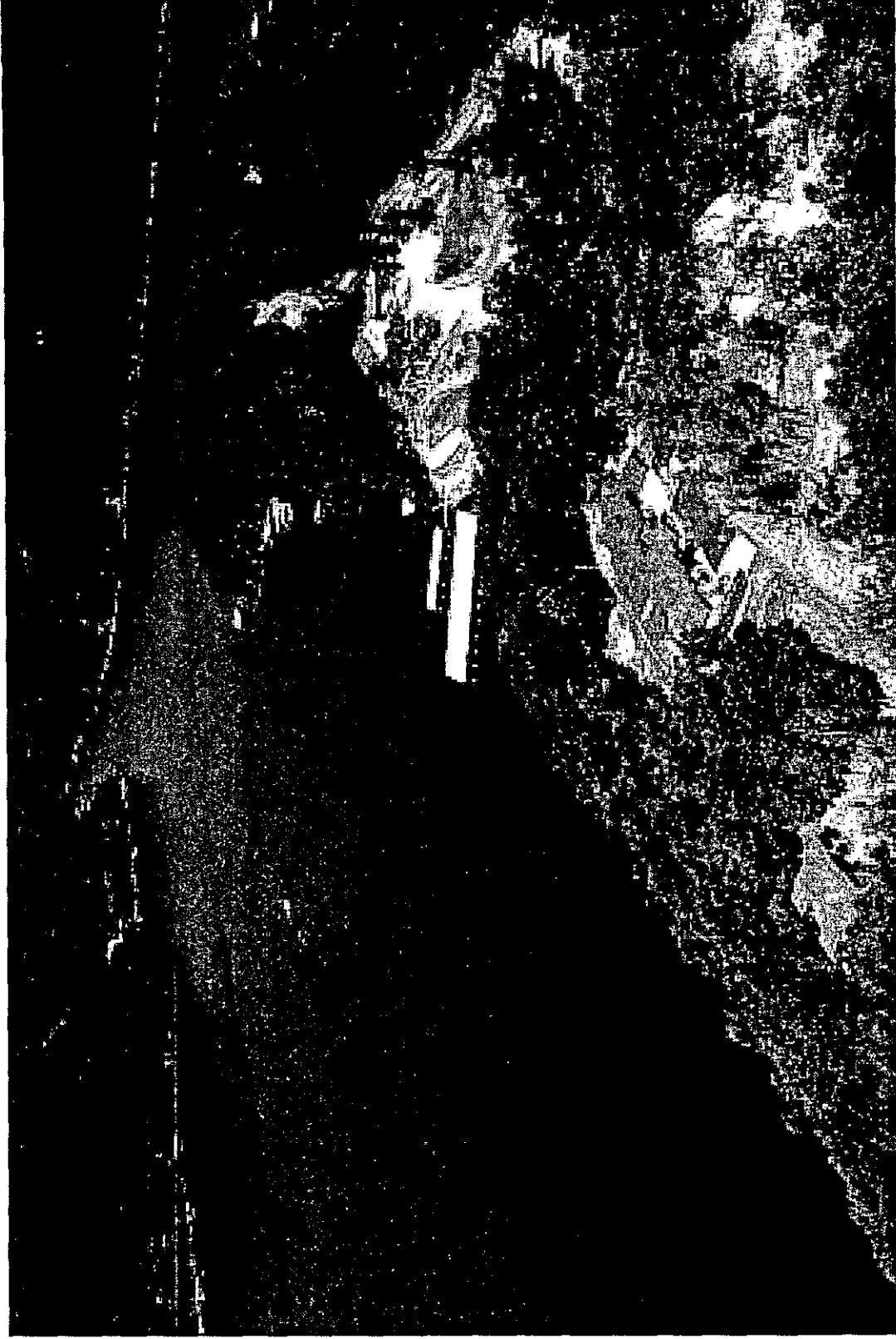




This is another aerial view of Big Island looking south and the  
Planned Unit Development area is on the right side of the  
photo.

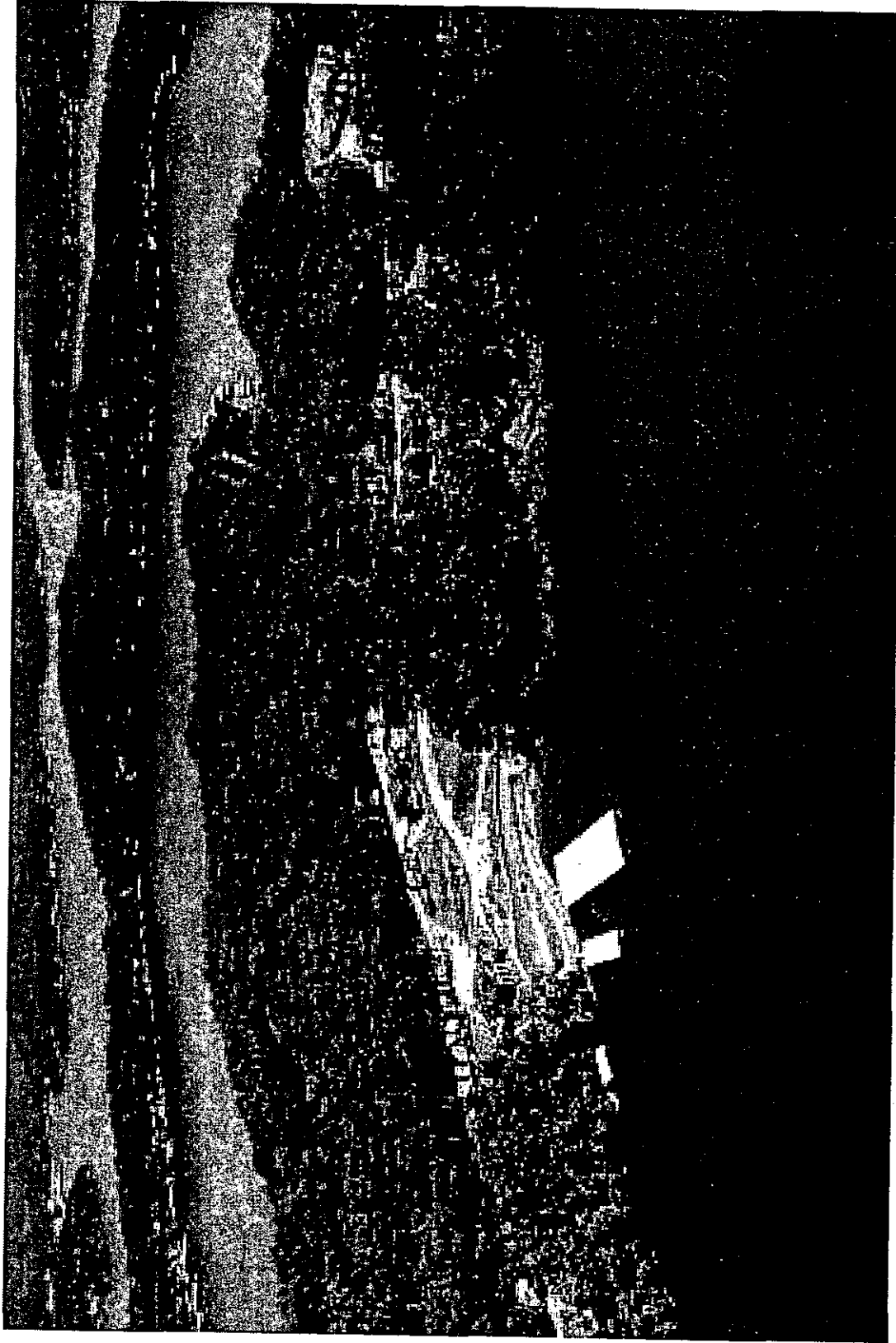
BB Schedule 4





This is a aerial photograph looking north at Big Island. The villas , community docks, pool and existing homes owned by Folsom Ridge are shown. BB Schedule 4

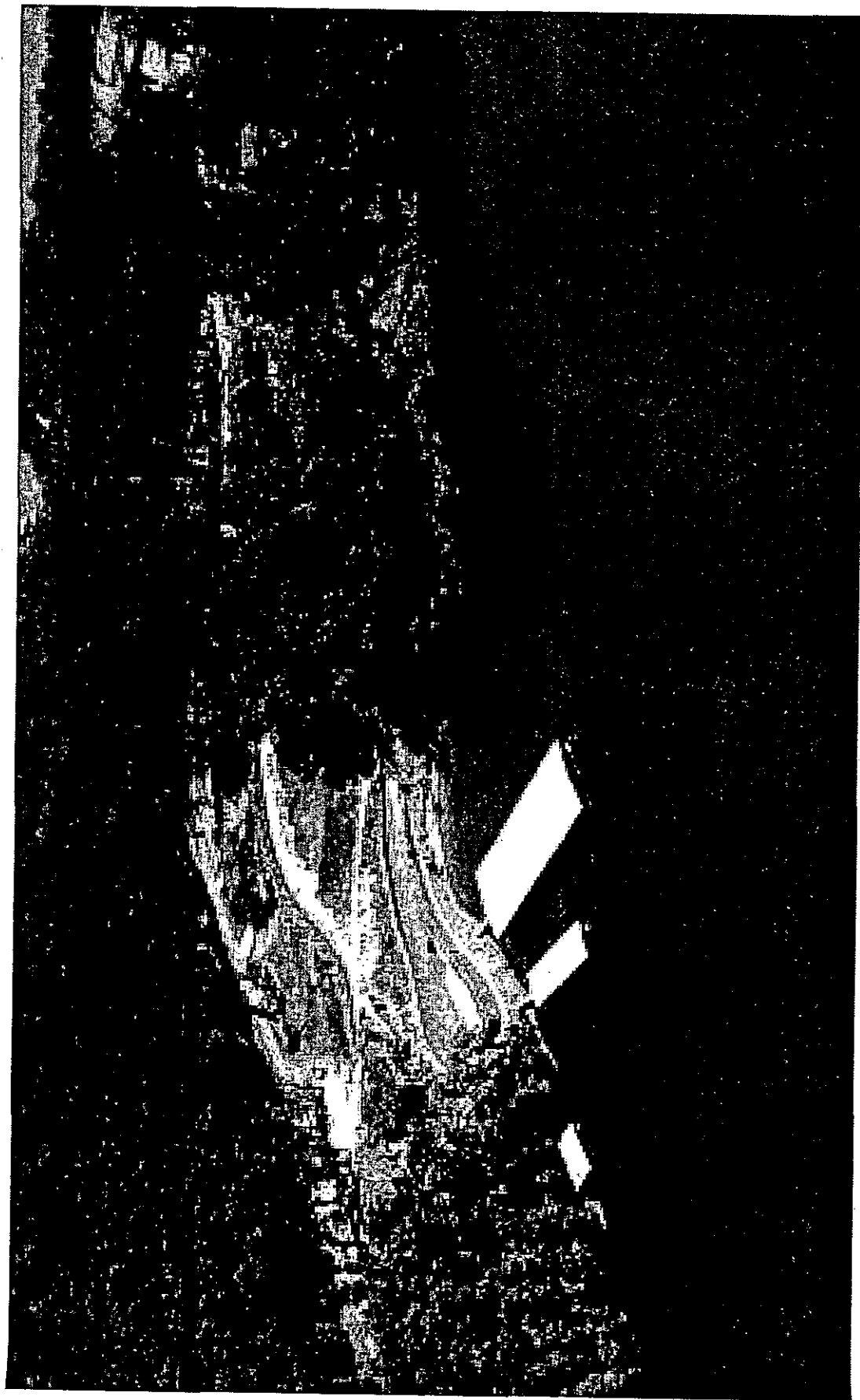




This is an aerial view looking at the western shoreline of Big Island where the villas, community docks and existing homes owned by Folsom Ridge can be seen. This is also shows the common dock.

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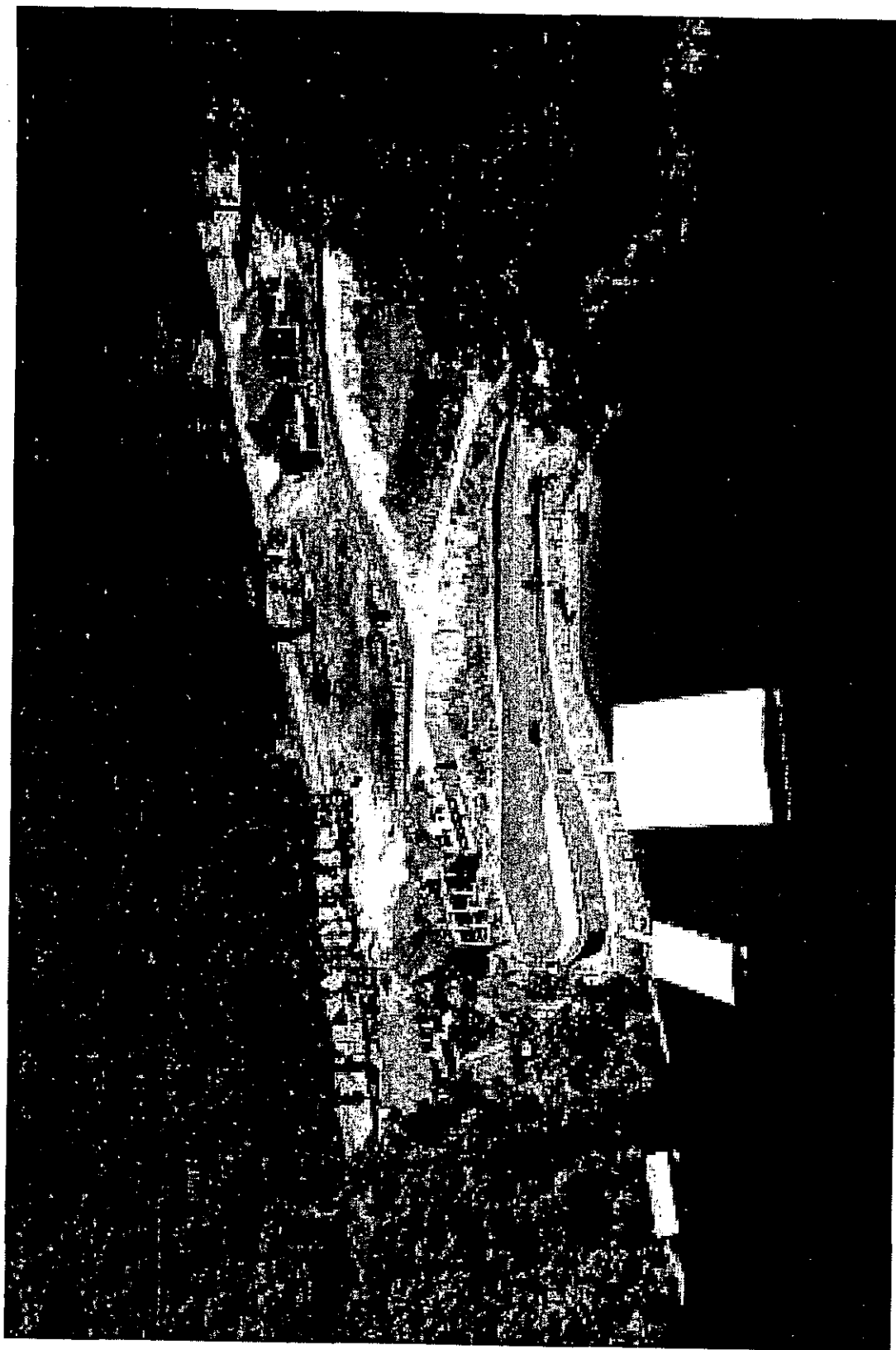




This is an aerial view looking north at Big Island again with the, villas, community docks and existing homes owned by Folsom Ridge in view as well. The sand filter is in the upper right area of the photo.



BB Schedule 4



An aerial view again looking north at Big Island and the two completed homes, two homes under construction, access drive, community docks, and existing home owned by Folsom Ridge are shown.

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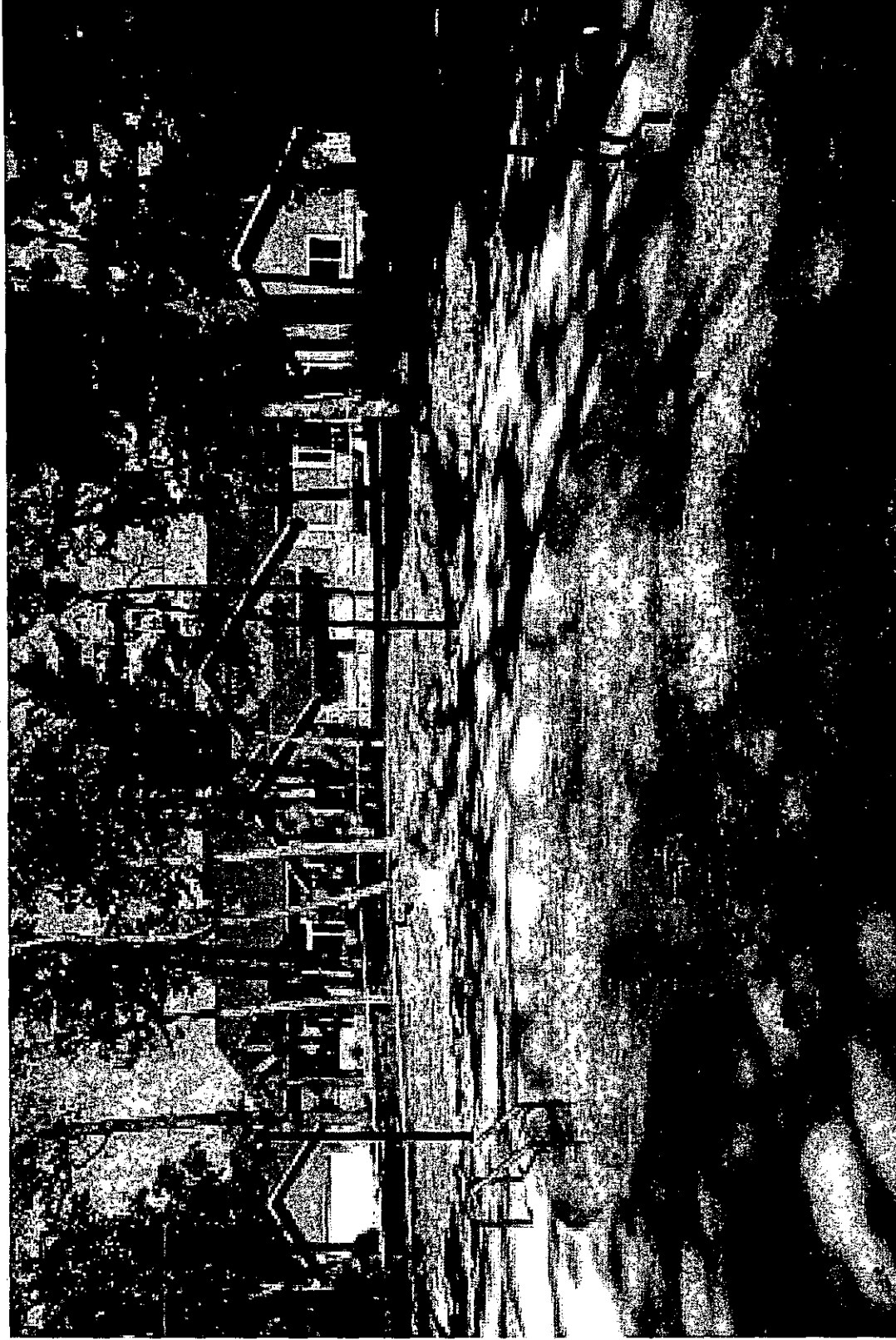




This is a view of the property looking west to the community docks from the PUD access drive.

BB Schedule 4

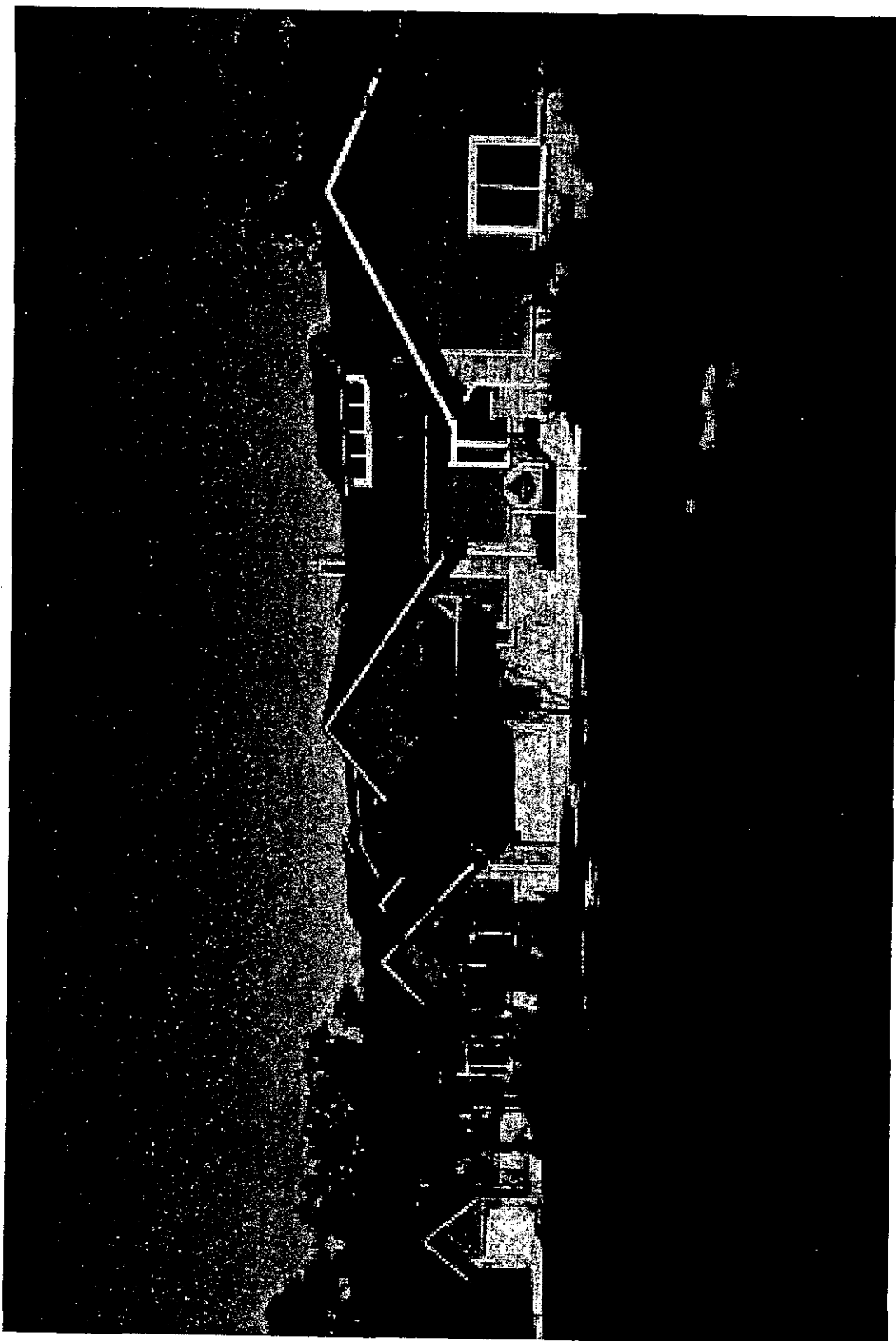




This photo shows the PUD community pool under construction.

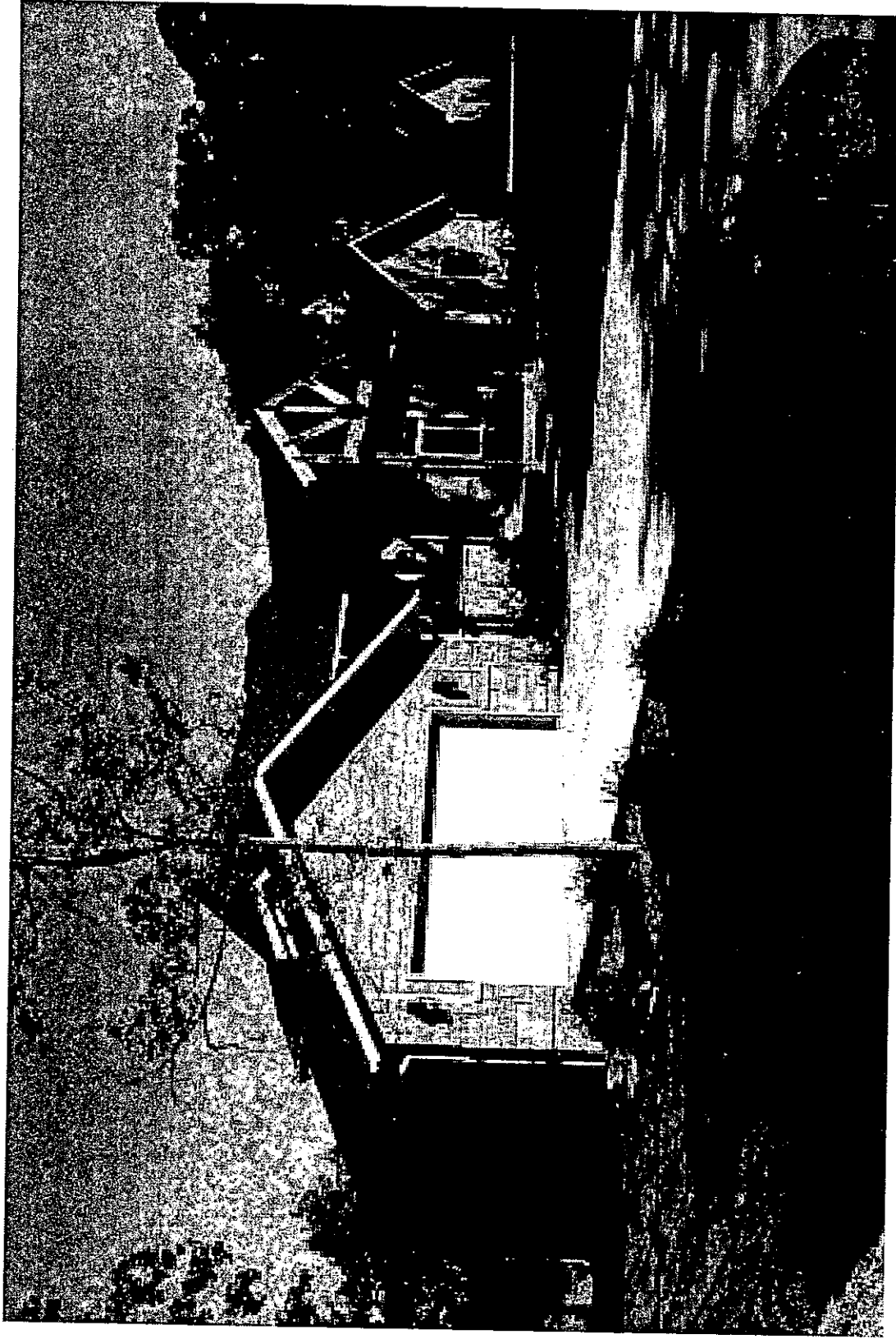
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This is a photo of the model homes and sales office for the development and three homes. BB Schedule 4

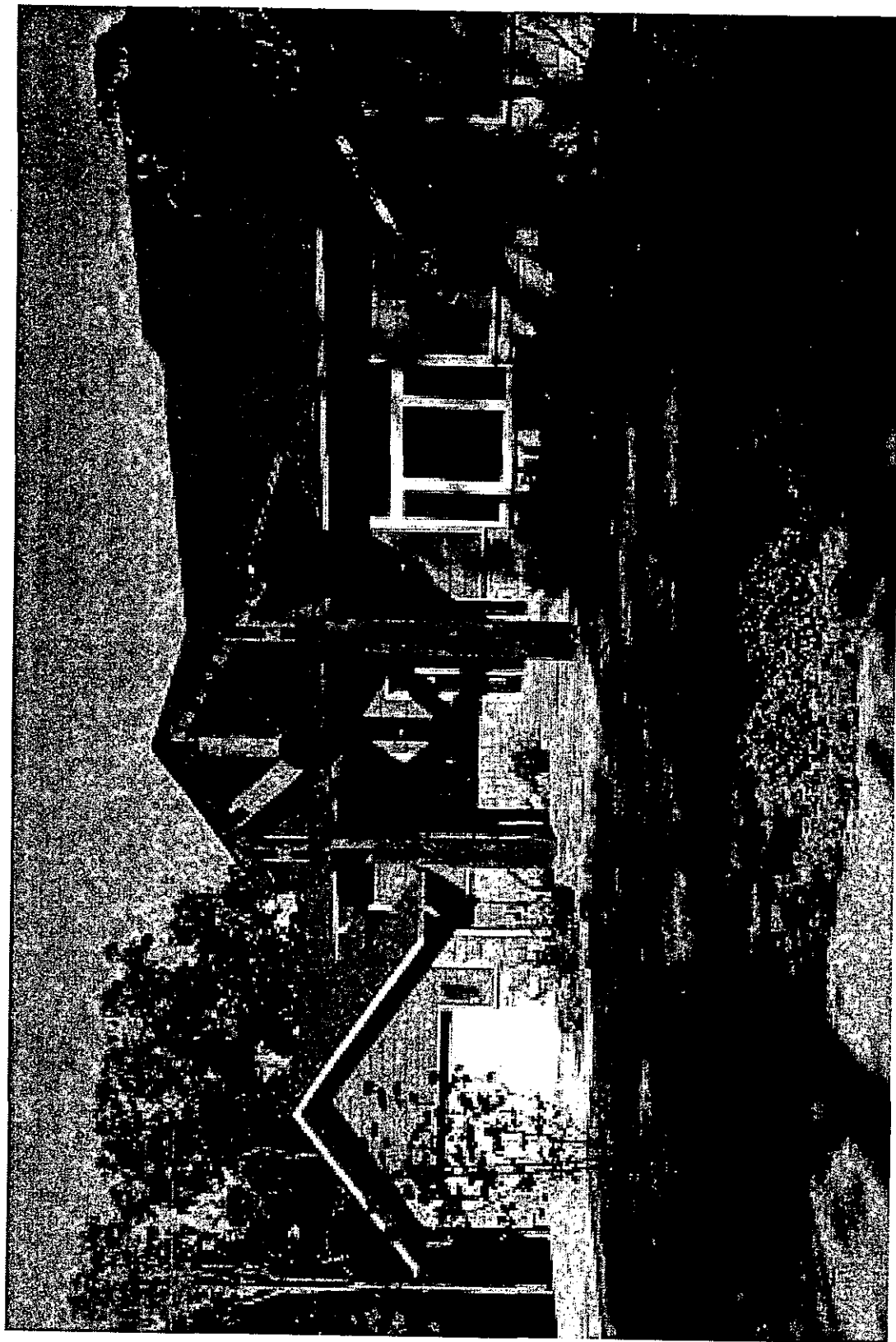




Another photo of the model homes and sales office for the development.

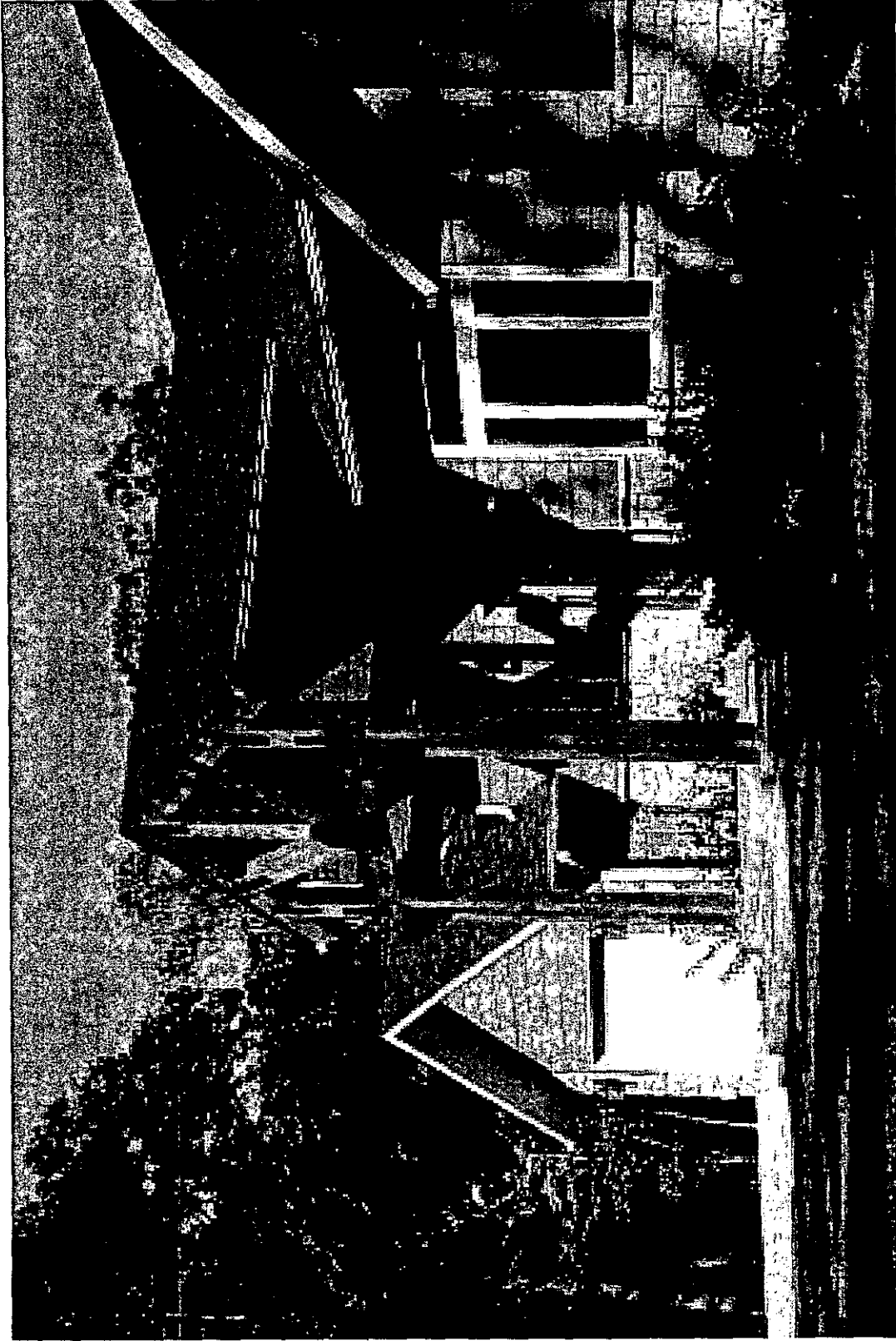
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Another view of the model homes and sales office for the  
planned unit development

BB Schedule 4



This a view of the entrance to the model home.

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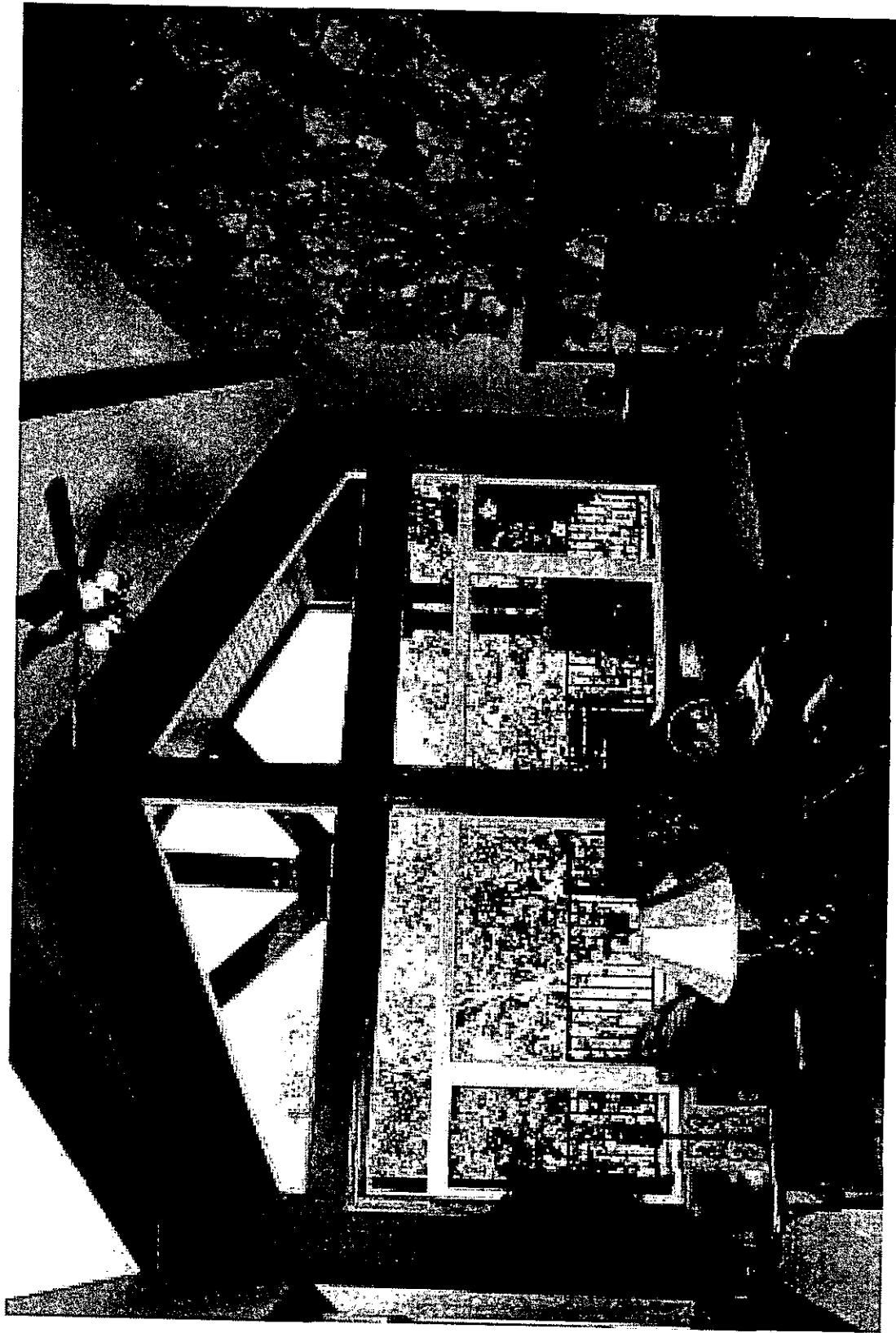
This photo shows the family room of one of the furnished model homes.

BB Schedule 4



This is a photo of the kitchen in one of the the furnished model homes.

BB Schedule 4



This is a photo of the family room of the furnished model home, and location of the sales office.

BB Schedule 4





A view of the Lake from the deck of the furnished model home .

BB Schedule 4



## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made between the Missouri Department of Natural Resources, the "Department"; Jeremiah W. (Jay) Nixon, Attorney General of Missouri, the "AGO"; and Folsom Ridge, L.L.C., "Folsom". The parties, the Department, the AGO, and Folsom, enter into this agreement on the date this Settlement Agreement is signed by the Department.

WHEREAS, Jeremiah W. (Jay) Nixon is the duly elected, qualified, and acting Attorney General of the State of Missouri.

WHEREAS, the Department is the state agency authorized to administer the provisions of the Missouri Clean Water Law, Chapter 644 of the Revised Statutes of Missouri (as amended) on behalf of the Clean Water Commission and the Missouri Safe Drinking Water Law, Chapter 640 of the Revised Statutes of Missouri on behalf of the Safe Drinking Water Commission.

WHEREAS, Folsom developed the Big Island Subdivision (Big Island) located in the NW ¼, NW ¼, SW ¼, Sec. 6, T38N, R17W, in Roach, Camden County, Missouri.

WHEREAS, Folsom built a wastewater treatment facility (WWTF), septic tank with a recirculating sand filter and chlorination, including collection (sewer) lines, to serve the residents of Big Island. Sludge is disposed of by a contract hauler.

WHEREAS, the receiving stream for the WWTF is the Little Niangua Arm of the Lake of the Ozarks basin, Class L2, which is waters of the state as defined in Section 644.016(17), RSMo.



WHEREAS, The Big Island Home Owners Association (BIHOA) owns and operates the WWTF pursuant to Missouri State Operating Permit (MSOP) MO-0123013. The MSOP expires on February 24, 2005.

WHEREAS, The Big Island Home Owners Association (BIHOA) submitted an engineering report, plans and specifications for a new community public water supply well, storage facility and distribution system and received approval for this report on December 18, 1998 pursuant to Public Drinking Water Program Review Number 31182-98. The approval was valid for two years.

WHEREAS, Folsom constructed a community water system as defined in Missouri Safe Drinking Water Regulation 10 CSR 60-2.015(2)(C)9.

WHEREAS, On December 18, 1998 the Missouri Public Drinking Water Program requested The Big Island Home Owners Association (BIHOA) to provide detailed drawings of the trench to match the revised specifications submitted by (BIHOA) and show the earthen shelf on which the water line was to be placed. The Missouri Public Drinking Water Program subsequently received the drawings, showing the earthen shelf.

WHEREAS, On February 23, 2000 final approval of the construction done under permit review number 31182-98 was sent to BIHOA which stated that this final approval does not include the distribution lines as the Department was unable to observe the placement of these lines to verify adequate separation of the water and sewer lines in accordance with community drinking water construction standards. This final approval also included the caveats that the Department reserves the right to require any and all necessary alterations of the system to bring it back into compliance with appropriate standards and to withdraw approval of the water supply facilities any time they are found to be unsatisfactory.

WHEREAS, The Big Island Home Owners Association (BIHOA) owns and operates the Drinking Water Treatment Plant pursuant to Public Water Supply permit (PWS) MO-3031265.

WHEREAS, on January 12, 2004, department staff inspected Big Island and observed the following violations: the water and wastewater collection and distribution lines were placed in the same trench without proper separation between the lines; the water distribution lines were not placed on an undisturbed earthen shelf as was stated in the as-built drawings; and the water and sewer lines were not constructed in accordance with the approved plans.

WHEREAS, failure to construct according to plans is a violation of Missouri Clean Water Law, Section 644.076.1, RSMo, and 10 CSR 20-8.120 (11)(C)1 and Missouri Safe Drinking Water Law, Section 640.115.2, RSMo, and 10 CSR 3.010(1).

WHEREAS, the Missouri Clean Water Law, Section 644.076.1, RSMo, makes it unlawful to violate the Missouri Clean Water Law and regulations promulgated pursuant thereto and establishes civil penalties of up to and including ten thousand dollars and no cents (\$10,000.00) per day for each day, or part thereof for each violation.

WHEREAS, the Missouri Safe Drinking Water Law, Section 640.130.4, RSMo, makes it unlawful to violate the Missouri Safe Drinking Water Law and regulations promulgated pursuant thereto and establishes civil penalties of up to and including fifty dollars and no cents (\$50.00) per day, or part thereof for the first violation of sections 640.100 to 640.140 and one hundred dollars and no cents (\$100.00) per day or part thereof for the second violation and for each violation thereafter.

WHEREAS, the Department, the AGO, and Folsom desire to resolve all disputes or claims which could be made against Folsom for the above-alleged violations of the Missouri Clean Water Law and Missouri Safe Drinking Water Law.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Department, the AGO, and Folsom further stipulate and agree as follows:

1. The provisions of this Settlement Agreement shall apply to and be binding upon the Department, the AGO, and Folsom, as well as their successors in interest, and their successors in office. Further, each party executing this Settlement Agreement shall be responsible for ensuring that their agents, subsidiaries, affiliates, lessees, officers, servants, or any person or entity acting pursuant to, through, or for the parties, adhere to the terms of this Settlement Agreement.

2. Folsom agrees to pay a civil penalty in the amount of eight thousand dollars and zero cents (\$8,000.00) in the form of a certified check or cashier's check made payable to the "Camden County Treasurer as Trustee for the Camden County School Fund." The check for the civil penalty sum is due and payable upon execution of this Settlement Agreement by Folsom. The check shall be mailed to:

Mr. Robert Cook  
Assistant Attorney General  
PO Box 899  
Jefferson City, MO 65102

Receipt of the executed Settlement Agreement and check are acknowledged by the Department and the AGO signatures affixed hereto.

3. Within sixty (60) days of the execution of this Settlement Agreement, Folsom shall submit to the department an engineering report, plans and specifications,

identifying the corrections required to be made to the water distribution system required or proposed to be made to correct issues necessitating this Settlement Agreement. That report must contain the signature and seal of an engineer registered in the State of Missouri to practice such work. That engineer shall respond to the department regarding requests for clarification of information, inclusion of additional information and the like and shall be transmitted to the department within thirty (30) days of request by the department for further information.

4. Within one hundred and eighty (180) days of the Department's approval of the engineering report, plans and specifications and issuance of a construction permit, Folsom shall complete modification of the water distribution system weather permitting.

5. Folsom shall submit to the department an engineer's certification of construction completion.

6. Under no condition shall any construction take place to modify, correct or replace any portion of the water distribution system until the construction permit, referenced in paragraph 5 above, has been issued by the department, and all such construction must be in strict compliance with the approved plans and specification reviewed and approved by the department.

7. Folsom shall notify the department's Southwest Regional Office (SWRO), and in particular the engineering section of that office, of the commencement of construction and shall make arrangements with that office for inspections to be made at intervals during the reconstruction. Folsom, or his general contractor, shall make such arrangements at least seventy-two (72) hours in advance of the anticipated need for such inspection and agrees to advise of any canceling or rescheduling needed at least forty-eight (48) hours before such inspection is scheduled to take place.

8. Folsom agrees that, in the event of any conflict in placement and/or alignment between water and wastewater piping during the course of the project, that he, or his contractor, shall communicate such conflict to the engineering section of the SWRO and shall resolve such conflict with approval from that office. Folsom, or his contractor, also agrees to properly record such resolutions on "as-built" plans to be submitted at the time the project is completed. Finally, Folsom agrees to refrain from covering such resolutions with fill material until inspected by SWRO engineering staff, if so directed by that office.

9. The terms of this agreement shall not be deemed to have been satisfied until the project has been subjected to a Final Construction Inspection and approved by staff from the SWRO and until Folsom's engineer has submitted a properly sealed certification of project completion, to include a statement that the project was constructed in accordance with previously approved plans and specifications.

10. Should Folsom fail to meet the terms of this Settlement Agreement, including the deadlines set out in paragraphs 3 - 9, Folsom agrees to pay stipulated penalties in the following amount:

<u>Days of Violation</u>	<u>Amount of Penalty</u>
1 to 30 days	\$100.00 per day
31 to 90 days	\$250.00 per day
91 days and above	\$500.00 per day

Any such stipulated penalty shall be paid within ten (10) days of demand by the AGO as described in paragraph 2. above. This stipulated penalty is not a civil penalty, nor an administrative penalty. Rather it is a sanction for not complying with the terms of this agreement.

11. Nothing in this Settlement Agreement shall be construed as excusing or

forgiving future noncompliance with the Missouri Clean Water Law, Chapter 644, RSMo, and its implementing regulations or the Missouri Safe Drinking Water Law, Chapter 640, RSMo, and its implementing regulations. In the event that Folsom fails to pay the civil penalty or comply with any other terms as specified herein, a breach of this Settlement Agreement shall be deemed to have occurred and litigation to require compliance or any other remedies will be pursued, including but not limited to, filing suit for the violations of the Missouri Clean Water Law and/or the Missouri Safe Drinking Water Law as alleged in this Settlement Agreement.

12. Execution of this Settlement Agreement shall be complete when the Department has signed and dated the Settlement Agreement. As the last party signing the Settlement Agreement, the Department shall promptly distribute copies of the executed Settlement Agreement to the other signatories.


13. Upon receipt of full payment of the above-mentioned penalty and full compliance with this Settlement Agreement, the Department and the AGO agree to refrain from initiating or asserting against Folsom any civil or administrative suit claiming violations of the Missouri Clean Water Law, Chapter 644, RSMo, and Missouri Safe Drinking Water Law, RSMo 640, as alleged in this Settlement Agreement.

14. Each signatory to this Settlement Agreement avers that he or she has the authority to bind his or her respective party to this Settlement Agreement as evidenced by their signature on this Settlement Agreement.

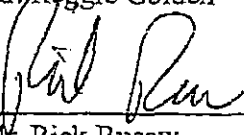
15. In consideration for the release contained herein, Folsom agrees to comply with all applicable Missouri water pollution statutes and regulations in the future.

In Witness Whereof, the parties have executed this Agreement as follows:

**FOLSOM RIDGE DEVELOPMENT LLC**


By:   
Mr. Reggie Golden

Date: 4/10/04

By:   
Mr. Rick Rusaw

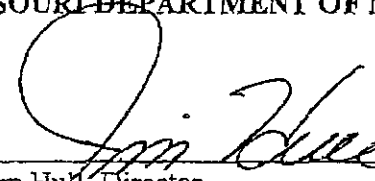
Date: 4/10/04

**JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL OF MISSOURI**

By:   
Robert C. Cook, Assistant Attorney General

Date: 4/20/04

**MISSOURI DEPARTMENT OF NATURAL RESOURCES**

By:   
Jim Hull, Director  
Water Protection Program

Date: 4-26-04

AMENDED AND RESTATED  
DECLARATION  
OF  
COVENANTS AND CONDITIONS

This Declaration, made by Folsom Ridge, LLC, a Colorado limited liability company certified to do business within the State of Missouri, hereinafter referred to as Declarant.

WHEREAS, Declarant is the owner of certain property in Camden County, State of Missouri which is located within the property more particularly described on Exhibit "A" attached hereto, hereinafter referred to as the "Property"; and

WHEREAS, Declarant desires to declare and establish certain covenants and conditions regarding water service and sewer service and related equipment, now owned by Declarant, to serve such Property; and

WHEREAS, Declarant wishes to allow certain additional property to utilize such water and sewer systems on the terms and conditions set forth herein; and

WHEREAS, Declarant recorded that certain Declaration of Covenants and Conditions affecting the real property described on Exhibit "A" attached hereto and additional real estate, which Declaration was recorded April 14, 2000 at Book 494, Page 577, and Declarant wishes to amend and replace such prior recorded Declaration in its entirety with this Amended and Restated Declaration of Covenants and Conditions.

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of allowing owners of the Property, or portions thereof, to use the Water System and Sewer System on the terms and conditions set forth hereinbelow, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I.

DEFINITIONS

Section 1. "Access Easements" shall mean and refer to those access easements upon the Property or Lots necessary to perform the duties and functions of the Association so as to permit it to operate the Water System and Sewer System. All such rights, privileges and easements shall be non-exclusive easements over and across the Lots for the purpose of permitting the operation of the Water System and Sewer System.

Section 2. "Articles" shall mean and refer to the articles of incorporation of the Association and any supplements or modifications thereto.

Section 3. "Association" shall mean and refer to Big Island Homeowners Association, Inc., a Missouri nonprofit corporation, its successors and assigns.



Section 4. "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

Section 5. "Bylaws" shall mean and refer to the Bylaws of the Association adopted August 19, 1998 and any supplements or modifications thereto.

Section 6. "Common Expenses" shall mean and include all expenses of administration, operation, maintenance, repair, replacement, utilities and taxes incurred by the Association pursuant to this Declaration related to the construction, improvement, maintenance and care of the Water System and Sewer System, all insurance premiums for the insurance carried by the Association, all expenses incurred in connection with enforcement of this Declaration, all expenses expressly declared to be Common Expenses by this Declaration or the Bylaws or future vote of the Association's Board of Directors, all sums lawfully assessed against the Lots by the Board of Directors of the Association, all other expenses which the Association is entitled to incur pursuant to the provisions of this Declaration, the Articles, or the Bylaws, and in performance of the operation, care, maintenance, and other duties, rights and obligations under this Declaration.

Section 7. "Declarant" shall mean and refer to Folsom Ridge, LLC, a Colorado limited liability company certified to do business within the State of Missouri, its successors and assigns.

Section 8. "Declaration" shall mean and refer to this document and all Supplemental Declarations (if any), together with all exhibits attached thereto.

Section 9. "Lot" shall mean and refer to any plot of land and improvements thereon designated as a Lot on any subdivision filings or for purposes of the purchaser constructing residential improvements, and for which a connection to the Water and/or Sewer System is intended and shall include any portion of the Property conveyed by Declarant or other real property which is added, in the future, to the terms of this Declaration by ratification or other document whereby such other property is intended to be bound by the terms of this Declaration.

Section 10. "Managing Agent" shall mean and refer to the person employed by the Board to perform the management and operational functions of the Association.

Section 11. "Mortgage" shall mean and refer to any mortgage, deed of trust or other document pledging a Lot or Property (or the Water System and Sewer System in the case of the Association) as security for the payment of a debt or obligation.

Section 12. "Mortgagee" shall mean and refer to any person, corporation, partnership, trust, company, association or other legal entity which takes, owns, holds or receives a Mortgage.

Section 13. "Owner" or "Owners" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 14. "Property" shall mean and refer to that certain real property described on Exhibit "A" attached hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 15. "Water System and Sewer System" shall mean the now existing water lines, and related improvements and equipment and future additions and modifications thereto, and the now existing sewer plant, pods, sewer lines, and related improvements and equipment and future additions and modifications thereto. If the term "Water System" is used separately, such term shall apply only to those improvements and equipment and future additions and modifications thereto, which are used solely for providing water services. If the term "Sewer System" is used separately, such term shall apply only to those improvements and equipment and future additions and modifications thereto, which are used solely for providing sewer services.

## ARTICLE II

### PURPOSES AND RESTRICTIONS

Section 1. The purpose of this Declaration and the Association is to provide for the Water System and Sewer System to serve the Lots and the Property.

Section 2. Mechanic's Lien Rights and Indemnification. No labor performed or materials furnished and incorporated with the consent of or at the request of the Owner thereof or his agent, or his contractor or sub-contractor, shall be the basis for filing of a lien against any other Lot or Property or the Water System and Sewer System where the Owner of any other Lot, or the Association in the case of the Water System and Sewer System, has not expressly consented to or requested the same. Each Owner consenting to or requesting such labor or materials shall indemnify and hold harmless each of the Owners of other Lots or Property and the Association from and against all liability arising from the claim of any lien against any other Lot or the Water System and Sewer System for construction performed, or for labor, materials, services or products incorporated in an Owner's Lot at such Owner's express or implied consent or request. Notwithstanding the foregoing, any first Mortgagee of a Lot who shall become the Owner of such Lot pursuant to a lawful foreclosure sale or the taking of a deed in lieu of foreclosure shall not be under any obligation to indemnify and hold harmless any Owners of Lots or the Association against liability for claims arising prior to the date such first Mortgagee becomes an Owner, but such first Mortgagee shall be under such obligation for any such claims for work performed or materials furnished thereafter at the request of the Mortgagee.

Section 3. Unlawful Activity Prohibited. No unlawful use shall be made of the Water System and Sewer System, or any property or improvements in which the Association owns an interest, nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having authority over the Property shall be observed.

## ARTICLE III

### ADMINISTRATION AND MANAGEMENT OF THE WATER SYSTEM AND SEWER SYSTEM

Section 1. Association as Administrator. The administration of the Water System and Sewer System shall be governed by this Declaration, the Articles, the Bylaws, and Rules and Regulations. An Owner of a Lot shall become a member of the Association upon conveyance to him of his interest in a Lot and shall remain a member for the period of his ownership.

The Association shall be granted all of the powers necessary to govern, manage, maintain, repair, administer and regulate the Water System and Sewer System and to perform all of the duties required of it. Notwithstanding the above, unless the Owners of

at least two-thirds (2/3) of the Lots have given their prior written approval, the Association shall not be empowered or entitled to:

(A) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Water System and Sewer System or other property owned, directly or indirectly, by the Association (except that the granting of easements for public utilities or other public purposes consistent with the intended use of such property by the Association or Owners shall not be deemed a transfer within the meaning of this clause), or to terminate the Water System and Sewer System;

(B) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(C) use hazard insurance proceeds for loss to any Association property for other than repair, replacement or reconstruction of such Water System and Sewer System.

The Association shall grant to each first Mortgagee of a Lot the right to examine the books and records of the Association at any reasonable time at the expense of the Mortgagee.

#### Section 2. Reservation for Access - Maintenance, Repair and Emergencies.

The Association shall have the irrevocable right to have access to each Lot from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any portion of the Water System and Sewer System, or undertaking such repairs and maintenance the Association is obligated, or elects, to perform or at any time for making emergency repairs therein necessary to prevent damage to the Water System and Sewer System or to another Lot caused by, or threatened to be caused by, the Water System and Sewer System. Damage to any part of a Lot or Property resulting from the maintenance, repair, emergency repair or replacement of any portion of the Water System and Sewer System, or as a result of emergency repairs to another Lot, at the instance of the Association shall be a Common Expense of all of the Owners unless caused by the negligence or acts of a specific Owner or its contractors, invitees, or permittees. No diminution or abatement of Common Expense assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements or from action taken to comply with any law, ordinance or order of a governmental authority. Restoration of the damaged improvements shall be substantially the same as the condition in which they existed prior to the damage. Notwithstanding the foregoing, if any such damage is the result of the actions or negligence of any Owner, then such Owner shall be solely responsible for the costs and expense of repairing such damage.

#### Section 3. Maintenance and Service Responsibility.

(A) Owner. Each Owner shall maintain and keep in repair the connections to the Water System and Sewer System lying within the interior of his Lot, including pipe connections to the Water System and Sewer System. No owner shall do an act, or fail to do an act, that will impair the Water System and Sewer System or impair any easement or hereditament which may affect the Water System and Sewer System. All connections, maintenance and repairs to an owner's pipe connections and to the Water System and Sewer System shall be performed in accordance with applicable laws and regulations and also in accordance with standards acceptable to the Association. No connection shall be made unless inspected and approved by the Association through its designated representatives. In the event an Owner fails to keep their water and sewer connection to the Water System and Sewer System, and/or their water and sewer systems

located on their Lot or Property maintained in accordance with such standards, the Association shall have the right to perform such maintenance on behalf of the Owner of such Lot and on his account, and the cost thereof shall be an additional assessment secured by the lien for Common Expenses against such Lot and due and payable by its Owner upon presentation by the Association of written statements therefor, provided however, that the assessment lien for such additional sum shall always be subordinate to the lien of the first Mortgagee.

(B) Association:

(1) The Association shall have the duty of maintaining and repairing all of the Water System and Sewer System to the property boundary of a Lot once a Lot is connected to the Water System and Sewer System and the cost of said maintenance and repair shall be a Common Expense of all of the Owners unless caused by the actions or negligence of a particular Owner, and for which such Owner shall be liable. This maintenance obligation includes making reasonable safety inspections and immediate follow-up maintenance to correct unsafe conditions upon the Water System and Sewer System. The Association shall not need the prior approval of its members to cause such maintenance or repairs to be accomplished, notwithstanding the cost thereof; provided, however, there shall be no additions, alterations or improvements of or to the Water System and Sewer System requiring cumulative expenditures for such items in excess of Fifteen Thousand and NO/100 (\$15,000.00) in any one calendar year without the prior approval of the Owners representing a majority of the Lots. Such limitation shall not be applicable to the replacement, repair, maintenance or obsolescence of all or any portion of the Water System and Sewer System, or the undertaking of repairs the Association is obligated to perform.

(2) The Association shall provide to the Owners the following services which shall be paid from the Common Expense assessment, to wit:

- (a) maintenance, repair and restoration of the Water System and Sewer System;
- (b) administration and management of the Water System and Sewer System;
- (c) insurance coverages as deemed prudent by the Board;
- (d) enforcement of the covenants and conditions set forth in the Declaration, and enforcement of all obligations owed to the Association by the Owners; and
- (e) performing all other acts required by this Declaration, the Articles and the Bylaws.

Notwithstanding the above, the Association reserves the right to hire one or more persons or entities, including a Managing Agent, contractors, and employees to perform such services, provided, however, that any such contracts shall not be for a term in excess of one (1) year and shall provide that the same may be terminated on not more than ninety (90) days written notice, with or without cause, at any time by either party and without payment of any termination fee.

(3) All complaints by the Owners, and other authorized users, concerning the use and administration of the Water System and Sewer System, shall be submitted in writing to the Board and the Managing Agent. A written response to such

complaint shall be made within thirty (30) days of receipt of such complaint. This section shall not limit the Association's obligation to take immediate maintenance action to correct unsafe conditions.

(C) Water and Sanitary Sewer Lines and Fees. Except to the extent that any such lines are maintained and repaired by a governmental agency responsible therefor, the Owner of a Lot shall be responsible for undertaking and paying the cost of maintenance and repair of water and sanitary sewer lying within his Lot, and the Association shall be responsible for undertaking and paying the cost of maintenance and repair of water and sanitary sewer lines lying outside the boundary of a Lot unless the maintenance or repair is necessitated by the actions or negligence of a particular Owner and for which such Owner shall be liable. The Association, and the Owner of each Lot, respectively, shall promptly pay all water and sanitary sewer charges imposed thereon.

(D) Responsibility for Expenses Solely Attributable to Water System or Sewer System. Notwithstanding anything to the contrary set forth, to the extent that an expense is incurred, or to be incurred, by the Association solely to maintain or benefit only the Water System or only the Sewer System, (and to the extent such expense can be reasonably established as benefiting only the Water System or the Sewer System), such expense shall only be allocated among and chargeable to those Owners connected to the system for which the expense was incurred or to be incurred, (e.g. if a cost is incurred solely for repairing a water line, such cost shall be allocated only among those Owners connected to the Water System).

#### ARTICLE IV

#### COVENANT FOR MAINTENANCE ASSESSMENTS

##### Section 1. Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Lot owned within the Property and each Owner of a Lot ratifying this Declaration, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association for each Lot connected to the Water System and Sewer System: (i) annual assessments or charges, and (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, shall become the personal obligation of the Owner of such Lot at the time when the assessment fell due, and his successors in title. If a Lot is owned by more than one person or entity, the Owners shall be jointly and severally liable for all assessments or charges against such Lot.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the purposes of the Association as set forth in this Declaration and for the construction, improvement and maintenance of the Water System and Sewer System.

Section 3. Working Capital Deposit. The Owners of each Lot or Property connected to the Water System and Sewer System, shall maintain on deposit with the Association a sum set from time to time by the Board, and as approved by the affirmative vote of two-thirds (2/3) of the Owners, as operating capital for the Association. Each Owner acknowledges that this deposit is for the purpose of providing operating funds for the Association, and not as reserves for improvement, unless specifically designated as part

of the capital improvement reserves by the Board. The amount of such deposit shall be adjusted annually as of the time the annual assessments are determined. All additional sums due to, or to be refunded by, the Association shall be paid, or refunded, within thirty (30) days after the determination. The Association shall not be required to pay interest on such deposits. At the time of each conveyance of a Lot or Property, such deposit shall not be returned to the selling Owner, but the selling Owner shall be entitled to a credit from his purchaser to the extent of the selling Owner's current balance of such deposit.

Section 4. Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement under the following terms:

A. With regard to the original Water System and/or Sewer System, any such special assessment for construction, reconstruction, repair or replacement under this section shall have the assent of two-thirds (2/3) of the Owners and (1) who are connected to the Water System and/or Sewer System, as applicable, or (2) who have membership rights by virtue of their ownership of a Lot, or (3) who are entitled to use such original Water System and Sewer System by virtue of having paid a tap fee but who have not yet connected to the original Water System and Sewer System), who are voting in person or by proxy at a meeting duly called for this purpose. The initial Sewer System is designed to serve 80 homes (included in this number are homes which are entitled to connect to the original Sewer System by virtue of having paid a tap fee but have not yet established a connection).

B. With regard to any expansion of the Water System and/or Sewer System to serve Lots beyond the original 80 Lots intended to be served by the original Water System and Sewer System shall be paid by Declarant or its successors. For a period of five (5) years from September 1, 2000, with regard to the Water System and Sewer System presently in existence and installed by Folsom, and such additional systems or additions thereto (expansion) that may be installed in the future by Folsom, Folsom warrants the Water System and Sewer System were installed in accordance with customary installation procedures and to the best of Folsom's knowledge were installed in accordance with applicable laws and regulations. In the event a defect is discovered within the warranty period, for (a) the water and sewer lines installed by Folsom and/or (b) the sand beds installed by Folsom serving the sewer system, Folsom commits to repair defects at its sole cost. Such warranty does not cover defects and damages occasioned due to acts of God and damages caused by circumstances beyond Folsom's control. If any of the materials used in the Water System or Sewer System are found to be defective or if the installation is found to be defective, Folsom shall be entitled to any claim and recovery against the manufacturer concerning the materials used in the Sewer System and Water System, and against the original installer for any defective installation.

C. In order to alleviate the impact of the cost of unforeseen expenses and/or capital improvements, the Association by the assent of two-thirds (2/3) of the Owners may establish a reserve account, and monthly assessments to fund such reserve account.

Section 5. Notice and Quorum for any Action Authorized Under Section 4.A. Written notice of any meeting called for the purpose of taking any action authorized under Section 4.A. shall be sent to all members not less than thirty (30) days nor more than ninety (90) days in advance of the meeting. At each such meeting called, the presence of members or of proxies entitled to cast a simple majority of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, but never less than twenty-five

percent (25%) of all votes eligible to be cast. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots on a prorata basis based on the number of connections to the Water System and Sewer System and shall be collected on a monthly basis. The liability for assessments shall become effective upon connection to the Water System and/or Sewer System, as applicable.

The Association may establish a lesser common expense assessment and assessment for reserving for those Owners of Lots which have obtained a commitment for a tap to the Water System and/or Sewer System, but which Lot has not yet connected to such system(s).

Notwithstanding anything to the contrary set forth, to the extent that an expense is incurred, or to be incurred, by the Association solely to maintain or benefit only the Water System or only the Sewer System, (and to the extent such expense can be reasonably established as benefiting only the Water System or the Sewer System), such expense shall only be allocated among and chargeable to those Owners connected to the system for which the expense was incurred or to be incurred, (e.g. if a cost is incurred solely for repairing a water line, such cost shall be allocated only among those Owners connected to the Water System).

Section 7. Date of Commencement of Annual Assessments: Due Dates. Except as set forth in Section 6 for non-connected Lots, the annual assessments provided for herein shall commence as to all Lots connected to the Water System and Sewer System (and those Lots ratifying this Declaration) on the first day of the month following such Lot's connection to the Water System and Sewer System. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot connected to the Water System and Sewer System at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The assessment due dates shall be established by the Board of Directors. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within then (10) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Water System and Sewer System or abandonment of his Lot, unless agreed to in a writing signed by the Association.

To evidence such lien for unpaid assessments, the Association shall prepare a written notice setting forth the amount, the name of the Owner of the Lot and a description of the Lot. Such notice shall be signed on behalf of the Association by an officer of the Association and shall be recorded in the records of Camden County, Missouri. Such lien shall attach from the due date of the assessment, and may be enforced by foreclosure by the Association of the defaulting Owner's Lot in like manner as mortgages on real property. The lien provided herein shall be in favor of the Association and for the benefit of all of the Owners who are members of the Association, and, in furtherance thereof, the Association

shall have the absolute right and power to sell such Lot. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs, expenses and attorney's fees for filing the notice or claim of lien, and all reasonable attorney's fees in connection with such foreclosure. The Owner shall also be required to pay to the Association the assessment for the Lot during the period of foreclosure and the Association shall be entitled to a receiver to collect the same. Pursuant to a foreclosure, the Association on behalf of the Owners shall have the power to bid for the Lot at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same. The Association shall send to the first Mortgagee of such Lot a copy of the Notice of Lien provided for herein. Any person holding a lien on a Lot may, but shall not be required to, pay any unpaid Common Expense payable with respect thereto, and upon such payment such person shall have a lien on such Lot for amounts so paid of the same rank as such encumbrance's lien.

Section 9. Subordination of the Lien to First Mortgages. The lien securing the payment of the assessments provided for herein shall be subordinate to the lien of any first Mortgage. However, to the extent allowed by law, the lien of such assessments shall be superior to any homestead exemption as now or hereafter may be provided by Federal or Missouri law, and the acceptance of a deed or contract for deed to land subject to this Declaration shall constitute a waiver of the homestead exemption as against the said assessment lien. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a first Mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE V

### ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of the Property and/or a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Property and/or Lot, except by mutual written agreement of the Association and the Owner.

Section 2. Voting Class. The Association shall have one class of voting membership which shall be all Owners and shall be entitled to one vote for each Lot owned or connected to either the Water System or the Sewer System. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to each Lot.

Section 3. Bylaws. The Association shall establish its own bylaws for the conduct of its affairs which shall include reasonable notice to each member prior to any meeting. Decisions of the Association shall be by majority of votes cast at any meeting, except as otherwise provided hereinabove.

Section 4. Board of Directors. The Board of Directors shall consist of five (5) Directors, who shall be members of the Association or an officer, director, manager or partner of an Owner or its partner, or an employee, manager or designee of Declarant. For a period ending September 1, 2006, Folsom Ridge, LLC, or its successors, shall be entitled to appoint three (3) Directors of the Board of Directors.

Section 5. Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the



Lots covered by the Declaration and any Lots later bound by this Declaration by ratification or consent and the use of the Water System and Sewer System which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Prior to any decision to suspend voting rights, or to impose monetary penalties, the Board shall grant notice and hearing pursuant to procedures adopted by the Board from time to time.

## ARTICLE VI

### RESERVED RIGHTS OF DECLARANT

Section 1. Rights. Declarant shall have the right to sell or create additional Lots being portions of the Property, and the Owner of such additional Lots shall have the right to obtain a tap and be served by the Water System and Sewer System subject to the terms of this Declaration.

Section 2. Declarant shall be entitled to recover from the Owner of any Lot connecting to the Water System and/or Sewer System in the future, any tap fee paid by such owner until such time as Declarant has received tap fees equal to the cumulative sum of \$300,000.00 plus 8 percent per annum interest from May 1, 2000.

## ARTICLE VII

### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner or Declarant, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner or Declarant to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by all of the Owners of not less than two-thirds (2/3) of the Lots. Each amendment must be recorded.

Notwithstanding the foregoing, any amendment to this Declaration which changes or restricts Declarant's rights set out herein shall required the written assent of Declarant.

Section 3. Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association, and except for periodic statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid and addressed in the name of the Owner to such registered mailing address. All notices, demands or other notices intended to be served upon the Association shall be sent by certified mail, postage prepaid, to Big Island Homeowners Association, Inc., P.O. Box 536, Roach, MO 65787 until such address change duly recorded in the records of Camden County, Missouri.

Section 4. Acceptance of provisions of all Documents. The conveyance or encumbrance of a Lot shall be deemed to include the acceptance of all of the provisions of this Declaration, the Articles and the Bylaws, and Rules and Regulations of the Association, and shall be binding upon each grantee without the necessity or inclusion of such express provision in the instrument of conveyance or encumbrance.

Section 5. General.

(A) If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance shall be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase, or word in any other circumstances shall not be affected hereby.

(B) Whenever used herein, unless the context shall otherwise provide, the plural, the singular, and the use of any gender shall include all appropriate genders and quantity.

(C) In the event there shall be any conflict between the provisions of this Declaration and any provision of the Articles, any Bylaw, or any rule or regulation of the Association, the provisions of this Declaration shall be controlling.

(D) All conditions and covenants set forth herein shall run with the real property subject to this Declaration and any future real property becoming bound by this Declaration by ratification or consent.

This Amended and Restated Declaration of Covenants and Conditions shall amend and replace in its entirety, that certain Declaration of Covenants and Conditions, which Declaration was recorded April 14, 2000 at Book 494, Page 577, and such prior Declaration shall be of no further force or effect.

In witness whereof the Managers of Declarant have hereunto set their hands this 10<sup>th</sup> day of January 2001.

Folsom Ridge, LLC,  
a Colorado limited liability company, certified to do business in Missouri

By [Signature]  
Reginald W. Golden, Manager

By [Signature]  
Rick Rusaw, Manager

By [Signature]  
David Lees, Manager

STATE OF Missouri )  
COUNTY OF Camden ) ss.

January The foregoing instrument was acknowledged before me this 10th day of January, 2001 by Reginald V. Golden, as Manager of Folsom Ridge, LLC, a Colorado limited liability company.

My commission expires: 5-24-2001

LISA A. PETERSON Witness my hand and official seal.  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Camden County  
My commission expires 5-24-2001

Lisa A. Peterson  
Notary Public

STATE OF Missouri )  
COUNTY OF Camden ) ss.

January The foregoing instrument was acknowledged before me this 10th day of January, 2001 by Rick Rusaw, as Manager of Folsom Ridge, LLC, a Colorado limited liability company.

My commission expires: 5-24-2001

LISA A. PETERSON Witness my hand and official seal.  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Camden County  
My commission expires 5-24-2001

Lisa A. Peterson  
Notary Public

STATE OF MISSOURI )  
COUNTY OF CAMDEN ) ss.

January The foregoing instrument was acknowledged before me this 10th day of January, 2001 by David Lees, as Manager of Folsom Ridge, LLC, a Colorado limited liability company.

My commission expires: 5-24-2001

LISA A. PETERSON Witness my hand and official seal.  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Camden County  
My commission expires 5-24-2001

Lisa A. Peterson  
Notary Public

## EXHIBIT "A"

All that part of the following described property which lies above contour elevation 662 feet:

In Section 6, Township 38 North, Range 17 West, four tracts of land described as follows:

1. All that part of Lots 1 and 2 of the Southwest Quarter which lies North of the original centerline of the Little Niangua River.
2. All that part of the Southeast Quarter which lies North and West of the original centerline of the Little Niangua River.
3. All that part of Lots 1 and 2 of the Northeast Quarter which lies South and West of the original centerline of the Little Niangua River.
4. Lots 1 and 2 of the Northwest Quarter.

ALSO, in Section 31, Township 39 North, Range 17 West, all that part of Lots 1 and 2 of the Southwest Quarter which lies South and East of the original centerline of the Little Niangua River.

ALSO, in Section 1, Township 38 North, Range 18 West, three tracts of land described as follows:

1. The Northeast Quarter of the Southeast Quarter.
2. All that part of the South half of the Southeast Quarter which lies North and West of the following described conditional line; From the Southwest corner of the Southeast Quarter of Section 1, run East along the South line of said Section 1, 510 feet to the center of a small cove of the Lake of the Ozarks for point of beginning of said conditional line; thence North 43 degrees 32 minutes East 494 feet; thence North 81 degrees 12 minutes East 1200 feet, more or less, to the original centerline of the Little Niangua River; thence upstream in an Easterly direction, along the original centerline of said Little Niangua River, 715 feet, more or less, to the East line of said Section 1.

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3. All that part of Lot 1 of the Northeast Quarter which lies South and East of the original centerline of the Little Niangua River. (Sometimes described as all that part of the Southeast Quarter of the Northeast Quarter which lies South and East of the original centerline of the Little Niangua River).

ALSO, in Section 12, Township 38 North, Range 18 West, part of the Northeast Quarter, described as follows: Beginning at the Northwest corner of the said Northeast Quarter, thence East along the North line of said Section 12, 510 feet, more or less, to the center of a small cove of the Lake of the Ozarks; thence South 54 degrees 02 minutes West, up said small cove, 630 feet, more or less, to a point on the West line of the said Northeast Quarter; thence North along said West line, 370 feet, more or less, to the point of beginning.

Subject to all existing roads.

There is recited in the description of the land above the words and figures "contour elevation 662 feet". Such elevation so recited refers to the United States Geological Survey Bench Mark at Bagnell, Missouri, having an elevation of 586.742 feet above Mean Gulf Sea Level, Biloxi, Mississippi, and wherein the words "contour" is recited in connection with said elevation reference is had to the contour of the Project Boundary of Project 459, Missouri.

ALSO, All of the East half of the Northeast Quarter of the Northwest Quarter of Section 12, Township 38 North, Range 18 West. Subject to the rights and easements of Union Electric Light and Power Company by instrument recorded in Book 53, Page 74 in the Office of the Recorder of Deeds, Camden County, Missouri.

ALSO INCLUDING all lots previously platted and recorded as Portage Park Unit One, Portage Park Unit Three, Big Island Lake Sites and Big Island Lake Sites First Addition, subdivisions in Camden County, Missouri, according to the recorded plats thereof. (Continued Next Page)

EXCEPT THE FOLLOWING LOTS: All of Lots 7, 9, 10 and that part of Lot 11 of PORTAGE PARK SUBDIVISION UNIT ONE, a subdivision in Camden County, Missouri, according to the plat thereof on file and of record in the Office of the Recorder of Deeds, Camden County, Missouri, described as follows: Beginning at a point in the centerline of the roadway shown on the recorded plat of said subdivision on the lot line between Lot 10 and Lot 11 of said subdivision; thence run along said centerline North 40 degrees 49 minutes East 15.00 feet; thence departing said centerline South 49 degrees 11 minutes East 20.14 feet to an iron pin on the right of way line of said roadway; thence continue South 49 degrees 11 minutes East 97.15 feet to an iron pin on the shoreline of the Lake of the Ozarks; thence run along said shoreline in a Southwesterly direction 15 feet, more or less, to the Southerly most corner of said Lot 11; thence departing said shoreline, North 49 degrees 11 minutes West, along the line between Lot 10 and Lot 11, a distance of 99.99 feet to an iron pin; thence continue North 49 degrees 11 minutes West, 20.17 feet to the point of beginning.

ALSO EXCEPTING: That part of Lot 11 of PORTAGE PARK UNIT ONE, a subdivision of record in Camden County, Missouri, and that part of Lot 12 of PORTAGE PARK UNIT ONE described as follows: Commencing at a point in the centerline of the roadway shown on the recorded plat of said subdivision on the lot line between Lot 10 and Lot 11 of said subdivision; thence run along said centerline North 40 degrees 49 minutes East 15.00 feet to the point of beginning of the tract of land described herein; thence continue along said centerline North 40 degrees 49 minutes 00 seconds East 70.00 feet to a point on the line between Lot 11 and Lot 12 of said subdivision; thence continue North 40 degrees 49 minutes East 30.00 feet; thence departing said centerline South 49 degrees 11 minutes 00 seconds East 20.14 feet to an iron pin; thence continue South 49 degrees 11 minutes 00 seconds East 87.29 feet to an iron pin on the shoreline of the Lake of the Ozarks; thence run along said shoreline in a Southwesterly direction 30 feet, more or less, to the lot line between Lot 11 and Lot 12; thence continue along said shoreline in a Southwesterly direction 70 feet, more or less, to an iron pin; thence departing said shoreline North 49 degrees 11

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minutes West 87.29 feet to an iron pin; thence continue North 49 degrees 11 minutes West 20.14 feet to the point of beginning.

ALSO EXCEPTING: That part of Lot 12 of PORTAGE PARK UNIT ONE, a subdivision of record in Camden County, Missouri, and that part of Lot 13 of PORTAGE PARK UNIT ONE, described as follows: Commencing at a point in the centerline of the roadway shown on the recorded plat of said subdivision on the lot line between Lot 10 and Lot 11 of said subdivision; thence run along said centerline North 40 degrees 49 minutes East 15.00 feet; thence continue along said centerline North 40 degrees 49 minutes 00 seconds East 70.00 feet to a point on the line between Lot 11 and Lot 12 of said subdivision; thence continue North 40 degrees 49 minutes East 30.00 feet to the point of beginning of the tract of land described herein; thence continue North 40 degrees 49 minutes East 55.00 feet to a point on the lot line between Lot 12 and Lot 13 of said subdivision; thence continue North 40 degrees 49 minutes East 55.0 feet; thence departing said centerline, South 49 degrees 11 minutes East 20.00 feet to an iron pin; thence continue South 49 degrees 11 minutes East 105.83 feet to an iron pin on the shoreline of the Lake of the Ozarks; thence run along said shoreline in a Southwesterly direction 114.5 feet, more or less to an iron pin; thence departing said shoreline, North 49 degrees 11 minutes West 87.29 feet to an iron pin; thence continue North 49 degrees 11 minutes West 20.14 feet to the Point of Beginning.

ALSO EXCEPTING: All that part of the following described property which lies above contour elevation 662 feet: Part of Lot 13 of PORTAGE PARK UNIT ONE, a subdivision of record in Camden County, Missouri, described as follows: Commencing at a point in the centerline of the roadway shown on the recorded plat of said subdivision on the lot line between Lot 10 and Lot 11 of said subdivision; thence run along said centerline North 40 degrees 49 minutes East 15.00 feet; thence continue along said centerline North 40 degrees 49 minutes 00 seconds East 70.00 feet to a point on the line between Lot 11 and Lot 12 of said subdivision; thence continue North 40 degrees 49 minutes East 30.00 feet; thence continue North 40 degrees 49 minutes East 55.00 feet to a point on the lot line between Lot 12 and Lot 13 of said subdivision;

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thence continue North 40 degrees 49 minutes East 55.0 feet to the point of beginning of the tract of land described herein; thence departing said centerline, South 49 degrees 11 minutes East 20.00 feet to an iron pin; thence continue South 49 degrees 11 minutes East 105.83 feet to an iron pin on the shoreline of the Lake of the Ozarks; thence run along said shoreline in a Northeasterly direction to a point where the shoreline intersects the Southerly line of said roadway; thence Northwesterly to a point on the centerline of said roadway; thence run along said centerline South 59 degrees 49 minutes West 53.1 feet to the point of beginning of a 40 degree curve to the left, thence run along said curve in a Southerly direction an arc distance of 47.5 feet; thence South 40 degrees 49 minutes West 59.10 feet to the point of beginning.

ALSO EXCEPTING: All that part of Lot 7 PORTAGE PARK SUBDIVISION UNIT THREE lying South and East of Lake Shore Drive as shown on plat recorded in Book 7, Page 9, Records of Camden County, Missouri. ALSO: Beginning at an existing 3/8 inch iron pin on the South right-of-way line of Lake Shore Drive on the West line of Lot 7 of said subdivision, thence run South 43 degrees 21 minutes 00 seconds West, along said right-of-way line, a distance of 50.00 feet to a set 1/2 inch iron pin; thence departing said right-of-way line, South 30 degrees 46 minutes 59 seconds East 21.06 feet to a set 1/2 inch iron pin on the shoreline of the Lake of the Ozarks; thence run along said shoreline in a Northeasterly direction 50 feet, more or less, to an existing 1/2 inch iron pin at the Southwest corner of said Lot 7; thence departing said shoreline, North 31 degrees 35 minutes 43 seconds West along the West line of said Lot 7, a distance of 45.76 feet to the point of beginning. Said property being a part of Lot 6 PORTAGE PARK UNIT 3 situated South and East of existing road known as Lake Shore Drive.

ALSO EXCEPTING: All of Lots 8, 9, 10, 11, 12, 14, 15, 16 and 17 of PORTAGE PARK SUBDIVISION UNIT THREE.

ALSO EXCEPTING: All of Lots 1 through 30; all of Lots 40 through 57; and all of Lots 58 through 65 in BIG ISLAND LAKE SITES.

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ALSO EXCEPTING: All of Lots 1, 2, 3, 4, 8, 9, 9-A, 9-B, 9-C, 9-D, 9-E; all of Lots 10 through 19; and all that Part of Lot 20 of the AMENDED PLAT OF BIG ISLAND LAKE SITES FIRST ADDITION, a subdivision of record in Camden County, Missouri, described as follows: Commencing at an existing iron pin on the Lake of the Ozarks at the Easterly most corner of said Lot 20 run North 48 degrees 46 minutes 53 seconds West along the line between Lot 20 and Lot 21 of said subdivision 145.47 feet to an existing iron pin; thence continue North 48 degrees 46 minutes 53 seconds West 13.50 feet to a point on the tangent line of said roadway; thence South 10 degrees 10 minutes 00 seconds West along said tangent line 18.60 feet to the point of beginning of the tract of land described herein; thence departing said tangent line South 44 degrees 29 minutes 11 seconds East 5.22 feet to an iron pin; thence continue South 44 degrees 29 minutes 11 seconds East 149.08 feet to an iron pin on the shoreline of the Lake of the Ozarks; thence run along said shoreline in a Southwesterly direction 50 feet, more or less, to an existing iron pin at the corner between Lot 19 and Lot 20 of said subdivision; thence departing said shoreline, North 30 degrees 57 minutes West 147.31 feet (plat=North 31 degrees 00 minutes West 147.0 feet) to a point on the tangent line of the roadway; thence run along said tangent line North 10 degrees 10 minutes East 18.50 feet to the Point of beginning.

ALSO EXCEPTING: All of Lots 26, 27, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, and all that part of Lot 55 of BIG ISLAND LAKE SITES FIRST ADDITION, AMENDED PLAT, a subdivision of record in Camden County, Missouri, described as follows: Commencing at a point on the centerline of the roadway shown on the recorded plat of said subdivision where the lot line between Lot 55 and Lot 56 of said subdivision intersects said centerline; thence, departing said Lot line South 03 degrees 28 minutes 43 seconds East, (Plat=South 03 degrees 30 minutes East) along said centerline 25.00 feet to the Point of Beginning of the tract of land described herein; thence departing said centerline, North 58 degrees 19 minutes 29 seconds East 22.69 feet to an iron pin on the right of way line of said roadway; thence, continue North 58 degrees 19 minutes 29 seconds East 365.96 feet to an iron pin on the shoreline of the Lake of the Ozarks; thence run along said shoreline as follows; South 00 degrees 09 minutes 13 seconds West 25.06 feet; thence South 23 degrees 50 minutes

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02 seconds West 14.57 feet; thence South 01 degrees 49 minutes 52 seconds West 25.16 feet to an iron pin on the South line of said Lot 55; thence departing said shoreline, South 62 degrees 50 minutes 00 seconds West, along said South line, a distance of 340.63 feet to an existing 3/8 inch iron pin at the Southwest corner of said Lot 55; thence continue South 62 degrees 50 minutes 00 seconds West 21.84 feet to a point on said centerline; thence run along said centerline North 03 degrees 28 minutes 43 seconds West, (Plat=North 03 degrees 30 minutes West), a distance of 25.00 feet to the Point of Beginning.

ALSO EXCEPTING: Lots 56, Part of Lot 55 and Part of Lot 57 BIG ISLAND LAKE SITES FIRST ADDITION, AMENDED PLAT, a subdivision of record in Camden County, Missouri, described as follows: Beginning at a point on the centerline of the roadway shown on the recorded plat of said subdivision where the lot line between Lot 55 and Lot 56 of said subdivision intersects said centerline; thence, departing said Lot line South 03 degrees 28 minutes 43 seconds East, (Plat=South 03 degrees 30 minutes East) along said centerline 25.00 feet; thence, departing said centerline, North 58 degrees 19 minutes 29 seconds East 22.69 feet to an iron pin on the right of way line of said roadway; thence, continue North 58 degrees 19 minutes 29 seconds East 365.96 feet to an iron pin on the shoreline of the Lake of the Ozarks; thence run along said shoreline as follows; North 00 degrees 09 minutes 13 seconds East 18.44 feet; thence North 16 degrees 23 minutes 47 seconds West 46.35 feet to an iron pin; thence North 16 degrees 23 minutes 47 seconds West 2.67 feet; thence North 38 degrees 13 minutes 33 seconds West 119.69 feet to an iron pin; thence North 38 degrees 13 minutes 33 seconds West 10.47 feet; thence North 65 degrees 18 minutes 07 seconds West 48.68 feet; thence North 86 degrees 30 minutes 45 seconds West 33.70 feet to an iron pin; thence departing said shoreline, South 26 degrees 38 minutes 39 seconds West 356.52 feet to an iron pin; thence continue South 26 degrees 38 minutes 39 seconds West 20.98 feet to a point on the tangent line of said roadway; thence South 44 degrees 09 minutes 59 seconds East 11.13 feet; thence South 03 degrees 28 minutes 43 seconds East, (Plat=South 03 degrees 30 minutes East) along said centerline 23.87 feet to the point of beginning.

ALSO EXCEPTING: All that part of the following described property which lies above contour elevation 662 feet: All that part of Lots 64, 65 and 66 of the AMENDED PLAT OF BIG ISLAND LAKE SITES FIRST ADDITION,

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a subdivision of record in Camden County, Missouri, described as follows: Beginning at a point on the centerline of the roadway shown on said plat on the line between Lot 63 and Lot 64 of said subdivision; thence run along said centerline North 28 degrees 10 minutes 00 seconds East 89.96 feet, (Plat=90 feet), to a point on the line between Lot 65 and Lot 66; thence departing said centerline, South 74 degrees 17 minutes 14 seconds East, (Plat=South 74 degrees 22 minutes East), a distance of 20.54 feet to an existing 3/8 inch iron pin on the line between Lot 65 and Lot 66; thence departing, said lot line, South 83 degrees 09 minutes 19 seconds East 200.45 feet to a set 1/2 inch iron pin on the shoreline of the Lake of the Ozarks, as shown on the recorded plat of said subdivision; thence run along said shoreline as follows, South 26 degrees 43 minutes 41 seconds West 31.48 feet to an existing iron pin on the corner to Lot 65 and Lot 66; thence South 23 degrees 42 minutes 37 seconds West 50.05 feet to an existing iron pin at the corner of Lot 65 and Lot 64; thence South 33 degrees 20 minutes 44 seconds West 18.47 feet to a set 1/2 inch iron pin; thence, departing said shoreline, North 80 degrees 28 minutes 30 seconds West 200.30 feet to an existing 3/8 inch iron pin on the line between Lot 64 and Lot 63 of said subdivision; thence North 71 degrees 42 minutes 14 seconds West, (Plat=North 71 degrees 50 minutes West), 20.31 feet to the Point of Beginning.

ALSO EXCEPTING: All of Lots 66 through 77; all of Lots 80, and 81; and all that part of Lot 84 of AMENDED PLAT OF BIG ISLAND LAKE SITES FIRST ADDITION, a subdivision of record in Camden County, Missouri, described as follows: Beginning at a point on the centerline of the 40 foot wide roadway, as shown on the recorded plat of said subdivision at the Southwest corner of said Lot 84; thence departing said centerline North 00 degrees 08 minutes 00 seconds West along the West line of said Lot 84, a distance of 20.06 feet to an existing iron pin on the North right of way line of said roadway; thence continue North 00 degrees 08 minutes 00 seconds West along said West line, a distance of 170.09 feet to an iron pin set on the shoreline of the Lake of the Ozarks; thence departing said West line run in a Southeasterly direction along said shoreline 24 feet, more or less, to an iron pin at a point which bears North 85 degrees 21 minutes 00 seconds East 17.40 feet and North 0 degrees 22 minutes 51 seconds East, 179.58 feet from the point of beginning; thence departing said shoreline, South 01 degree 22 minutes

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51 seconds West, 159.47 feet to an iron pin on the North right of way line of said roadway; thence continue South 01 degree 22 minutes 51 seconds West 20.11 feet to a point on the centerline of said roadway; thence South 85 degrees 21 minutes 00 seconds West along said centerline 17.40 feet to the Point of Beginning.

ALSO EXCEPTING: All of Lot 83 and All that part of Lot 82 of the AMENDED PLAT OF BIG ISLAND LAKE SITES, FIRST ADDITION, a subdivision of record in Camden County, Missouri, described as follows: Beginning at an existing 3/8 inch iron pin at the Southwest corner of said Lot 82; thence run along the West line of said Lot 82, North 02 degrees 38 minutes 11 seconds East 132.16 feet, (Plat=North 02 degrees 31 minutes East 132.5 feet), to an existing 3/8 inch iron pin at the Northwest corner of said Lot 82; thence run along the shoreline of the Lake of the Ozarks, South 83 degrees 42 minutes 09 seconds East 49.95 feet, more or less, to an existing 3/8 inch iron pin at the Northeast corner of said Lot 82; thence departing said shoreline, South 23 degrees 46 minutes 00 seconds West 138.27 feet to the Point of Beginning.

ALSO EXCEPTING: All that part of the following described property which lies above contour elevation 662 feet: All that part of Lot 84 of the AMENDED PLAT OF BIG ISLAND LAKE SITES FIRST ADDITION, a subdivision of record in Camden County, Missouri, described as follows: Commencing at a point on the centerline of the forty foot wide roadway, as shown on the recorded plat of said subdivision at the Southwest corner of said Lot 84; thence run along the centerline of the roadway shown on the recorded plat of said subdivision North 85 degrees 21 minutes East 17.40 feet to the point of beginning of the tract of land described herein; thence departing said centerline, North 01 degrees 22 minutes 51 seconds East 20.11 feet to an iron pin; thence continue North 01 degrees 22 minutes 51 seconds East 159.47 feet to an iron pin on the shoreline of the Lake of the Ozarks; thence run along said shoreline in a Southeasterly direction 24 feet, more or less, to an iron pin at the Northeast corner of said Lot 84; thence, departing said shoreline, South 03 degrees 05 minutes 00 seconds West, along the East line of said Lot 84; a distance of 148.96 feet to an existing iron pin on the North line of said roadway; thence continue South 03 degrees 05 minutes 00 seconds West 20.18 feet to a point on the centerline of said roadway at the Southeast corner of said Lot 84; thence South 85 degrees 21 minutes 00 seconds West 17.40 feet to the Point of Beginning.

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ALSO EXCEPTING: All that part of Lot 82 of the AMENDED PLAT OF BIG ISLAND LAKE SITES FIRST ADDITION, a subdivision of record in Camden County, Missouri, described as follows: Beginning at an existing 3/8 inch iron pin at the Northeast corner of said Lot 82; thence run South 11 Degrees, 4 Minutes, 48 Seconds West (Plat=North 10 degrees, 56 Minutes East) along the East line of said Lot 82, 139.33 feet to a point on the right of way line of the roadway shown on the recorded plat of said subdivision; thence run along said right of way line in a Northwesterly direction along a curve having a radius of 82.96 feet, an arc distance of 14.3 feet to a set 1/2 inch iron pin; thence departing said right of way line North 16 degrees, 40 minutes 43 seconds East 134.27 feet to the point of beginning.

ALSO EXCEPTING: All of Lots 85 through 94 AMENDED PLAT OF BIG ISLAND LAKE SITES, FIRST ADDITION.

ALSO EXCEPTING: All that part of the following described property which lies above contour elevation 662 feet: All that part of Lots 95, 96 and 97 of the AMENDED PLAT OF BIG ISLAND LAKE SITES, FIRST ADDITION, a subdivision of record in Camden County, Missouri, described as follows: Commencing at an existing 3/8 inch iron pin at the Southerly most corner of Lot 100 of said subdivision, thence run North 57 degrees 22 minutes 57 seconds East 153.26 feet (Plat=North 57 degrees, 18 minutes East 153.1 feet), along the line between Lot 100 and Lot 101, to an existing 3/8 inch iron pin at the lot corner between said Lot 100 and Lot 101 on the West right of way line of the roadway shown on the recorded plat of said subdivision; thence continue North 57 degrees 22 minutes 57 seconds East 22.72 feet to a point on the centerline of said roadway; thence run along said centerline North 61 degrees 00 minutes West 55.32 feet to the point of beginning of a 47 degree curve to the right; thence continue North 61 degrees 00 minutes West, along the tangent line of said curve, a distance of 14.57 feet; thence continue North 61 degrees 00 minutes 00 seconds West 30.40 feet to the P.I. of said 47 degrees curve; thence run along the tangent line and centerline of said roadway North 20 degrees 30 minutes West 49.77 feet to the point of beginning of the tract of land described herein; thence departing said centerline, South 85 degrees 58 minutes 30 seconds West 20.49 feet to an existing 3/8 inch iron pin; thence South 80 degrees 21 minutes 48 seconds West 153.83 feet to a point on the shoreline of the

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Lake of the Ozarks; thence run along said shoreline in a clockwise direction Northerly 225 feet, more or less, to an existing 3/8 inch iron pin at the Northerly most corner of Lot 95 of said subdivision; thence departing said shoreline, South 41 degrees 41 minutes 40 seconds East, along the lot line between Lot 94 and Lot 95 of said subdivision, 146.69 feet to an existing 3/8 inch iron pin at the Southeast corner of said Lot 95; thence continue South 41 degrees 41 minutes 40 seconds East 20.47 feet to a point on the centerline of said roadway; thence run along the centerline and tangent lines of said roadway as follows; South 60 degrees 39 minutes 19 seconds West 33.75 feet; thence South 20 degrees 30 minutes 00 seconds East 33.04 feet to the Point of Beginning.

ALSO EXCEPTING: All of the following described land lying above contour elevation 662 feet: All that part of Lots 97 and 98 of the AMENDED PLAT OF BIG ISLAND LAKE SITES FIRST ADDITION, a subdivision of record in Camden County, Missouri, described as follows: Commencing at an existing 3/8 inch iron pin at the Southerly most corner of Lot 100 of said subdivision; thence run North 57 degrees 22 minutes 57 seconds East 153.26 feet (Plat=North 57 degrees 18 minutes East 153.1 feet) along the line between Lot 100 and Lot 101, to an existing 3/8 inch iron pin at the lot corner between said Lot 100 and Lot 101 on the West right of way line of the roadway shown on the recorded plat of said subdivision; thence continue North 57 degrees 22 minutes 57 seconds East 22.72 feet to a point on the centerline of said roadway; thence run along said centerline North 61 degrees 00 minutes West 55.32 feet to the point of beginning of a 47 degree curve to the right; thence continue North 61 degrees 00 minutes West, along the tangent line of said curve, a distance of 14.57 feet to the point of beginning; thence departing said tangent line, South 70 degrees 21 minutes 18 seconds West 23.49 feet to an existing 3/8 inch iron pin; thence South 74 degrees 37 minutes 29 seconds West 166.60 feet to a point on the shoreline of the Lake of the Ozarks; thence run along said shoreline in a Northwesterly, Northerly and Northeasterly direction, a distance of 130 feet, more or less to a point which bears North 61 degrees 00 minutes 00 seconds West 30.40 feet, North 20 degrees 30 minutes 00 seconds West, 49.77 feet, and South 85 degrees 58 minutes 30 seconds West, 20.49 feet and South 80 degrees 21 minutes 48 seconds West, 153.83 feet from the point of beginning; thence departing said

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shoreline North 80 degrees 21 minutes 48 seconds East 153.83 feet to an existing 3/8 inch iron pin; thence North 85 degrees 58 minutes 30 seconds East 20.49 feet to a point on the centerline of said roadway; thence run along said centerline and tangent lines as follows: South 20 degrees 30 minutes 00 seconds East 49.77 feet to the P.I. of said 47 degree curve; thence South 61 degrees 00 minutes 00 seconds East 30.40 feet to the point of beginning.

ALSO EXCEPTING: All that part of the following described property which lies above contour elevation 662 feet: All that part of Lots 98, 99 and 100 of THE AMENDED PLAT OF BIG ISLAND LAKE SITES FIRST ADDITION, a subdivision of record in Camden County, Missouri, described as follows: Beginning at an existing 3/8 inch iron pin at the Southerly most corner of Lot 100 of said subdivision, thence run North 57 degrees 22 minutes 57 seconds East 153.26 feet, (Plat=North 57 degrees 18 minutes East 153.1 feet), along the line between Lot 100 and Lot 101, to an existing 3/8 inch iron pin at the lot corner between said Lot 100 and Lot 101 on the West right of way line of the roadway shown on the recorded plat of said subdivision; thence continue North 57 degrees 22 minutes 57 seconds East 22.72 feet to a point on the centerline of said roadway; thence run along said centerline North 61 degrees 00 minutes West 55.32 feet to the point of beginning of a 47 degree curve to the right; thence continue North 61 degrees 00 minutes West, along the tangent line of said curve, a distance of 14.57 feet; thence departing said tangent line, South 70 degrees 21 minutes 18 seconds West 23.49 feet to an existing 3/8 inch iron pin; thence South 74 degrees 37 minutes 29 seconds West 166.60 feet to a point on the shoreline of the Lake of the Ozarks; thence run along said shoreline in a Southeasterly direction a distance of 131.48 feet, more or less to the point of beginning.

ALSO EXCEPTING: All of Lot 101 in BIG ISLAND LAKE SITES FIRST ADDITION, a subdivision in Camden County, Missouri.

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All of the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) and all of the West half of the Northeast Quarter of the Northwest Quarter (W 1/2 NE 1/4 NW 1/4) and all of the Southwest Quarter of the Northwest Quarter (SW 1/4 NW 1/4), all in Section Twelve (12), Township Thirty-eight (38) North, and Range Eighteen (18) West; and

The Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of Section 12, Township 38 North, Range 18 West.

ALSO CONVEYING: All of the West half of the Southeast Quarter of the Southwest Quarter of Section One (1), Township 38 North, Range 18 West. Subject to the rights and easements of Union Electric Light and Power Company by instrument recorded in Book 53, Page 74 in the Office of the Recorder of Deeds, Camden County, Missouri.

ALSO CONVEYING: All of the East half (E 1/2) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section One (1), Township Thirty-eight (38) North, Range Eighteen (18) West. Subject to the rights and easements of Union Electric Light and Power Company by instrument recorded in Book 49, Page 619 in the Office of the Recorder of Deeds, Camden County, Missouri.

STATE OF MISSOURI  
COUNTY OF CAMDEN  
CERTIFIED INSTRUMENT RECORDER

2001 JAN 17 A 10:05

BOOK 507 PAGE 587  
DONNIE SNELLING, RECORDER

*Donna Shuang* DEPUTY

90<sup>00</sup> Chalfant.

