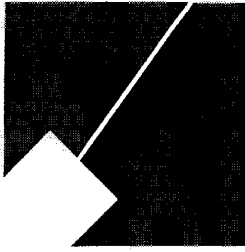


M-NCPPC



## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION9500 Brunett Avenue  
Silver Spring, Maryland 20901

Agenda Date: April 1, 2004

March 26, 2004

**CONSENT ITEM**

## MEMORANDUM

TO: Montgomery County Planning Board

VIA: Michael F. Riley, Chief, Park Development Division *MR*

FROM: William E. Gries, Land Acquisition Specialist *weg*  
(301) 650-2861

SUBJECT: Authorization to Convey 2.893 acres to the Board of Education of Montgomery County and 0.93 acres to Terrabrook Clarksburg, LLC at Kings Local Park

**BACKGROUND:**

Terrabrook Clarksburg, LLC received certain approvals from the Montgomery County Planning Board of M-NCPPC relating to the development of its Clarksburg Town Center Project through Preliminary Plan Opinion No. 1-95042, issued in March of 1996, and Site Plan Opinion No. 8-02014, issued in June of 2002 (collectively, the "Development Approvals"). The Development Approvals contemplated the dedication of certain properties owned by Terrabrook to the Commission and the Board of Education and the conveyance of certain properties owned by the Commission to the Board of Education and Terrabrook. This combination of dedication and conveyance of properties will facilitate the creation of a park/school site to serve the Clarksburg Town Center.

Terrabrook will be dedicating to the Commission 14.01 acres, which will be added to Kings Local Park. This park presently contains 13.79 acres. In addition, Terrabrook will be dedicating to the Board of Education 1.927 acres and the Commission will be conveying to the Board of Education 2.893 acres, all for school use. Lastly, the Commission will be conveying to Terrabrook 0.93 acres that will be used for stormwater management and road construction. After all dedications and conveyances are completed, the Commission will have title to 23.977 acres and the Board of Education will have title to 4.820 acres. This will provide for a park/school site of 28.797 acres, which is ample acreage to meet the local park and elementary school needs at this location. It should also be mentioned that Terrabrook, as a condition of the Development

Approvals, will also be responsible for certain grading, preparation and seeding of new relocated ballfields and the pad site for the elementary school. See Attachment "A" for an identification of the various parcels to be dedicated and conveyed. In addition, see Attachment "B", which outlines the existing Kings Local Park; Attachment "C", which outlines the future Kings Local Park; Attachment "D", which outlines the future elementary school site; and Attachment "E" which outlines the location of a future SWM facility.

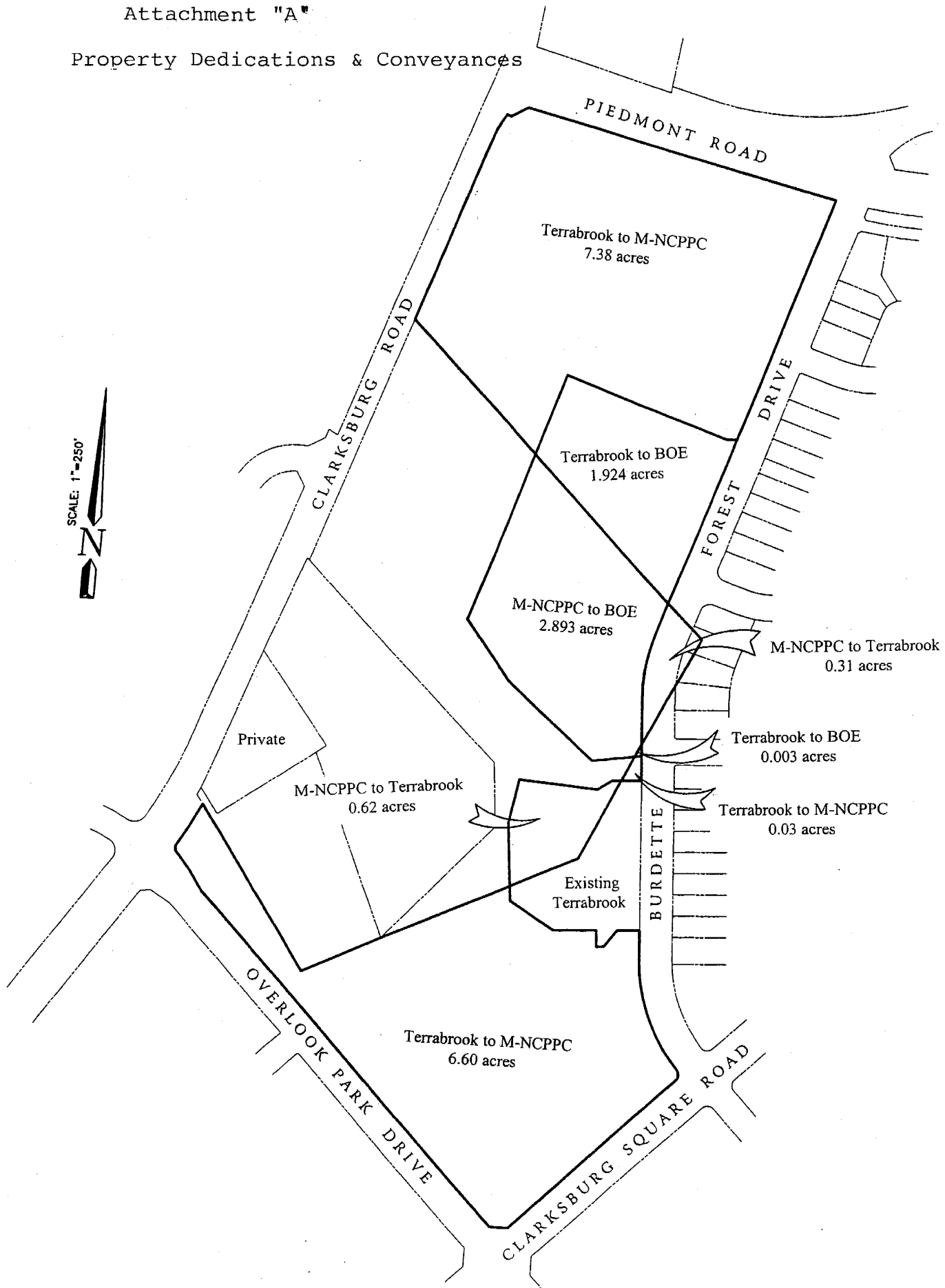
The land recommended for conveyance by the Commission to the Board of Education and Terrabrook Clarksburg, LLC was acquired using State of Maryland Program Open Space grant monies. Staff has already obtained approval from the Maryland Department of Natural Resources to convey the 2.893 acres to the Board of Education and the 0.93 acres to Terrabrook in exchange for the 14.01 acres being dedicated to the Commission by Terrabrook. This approval is necessary in keeping with the requirements for any land conversion of Program Open Space funded property to a non-park use. See Attachment "F".

**RECOMMENDATION:**

Since the dedications and conveyances of land described above were generally contemplated and approved through the development review process for the Clarksburg Town Center Project, staff recommends that the Board approve as a "consent item", the conveyances of 2.893 acres to the Board of Education for Montgomery County and 0.93 acres to Terrabrook Clarksburg, LLC, as specifically described herein.

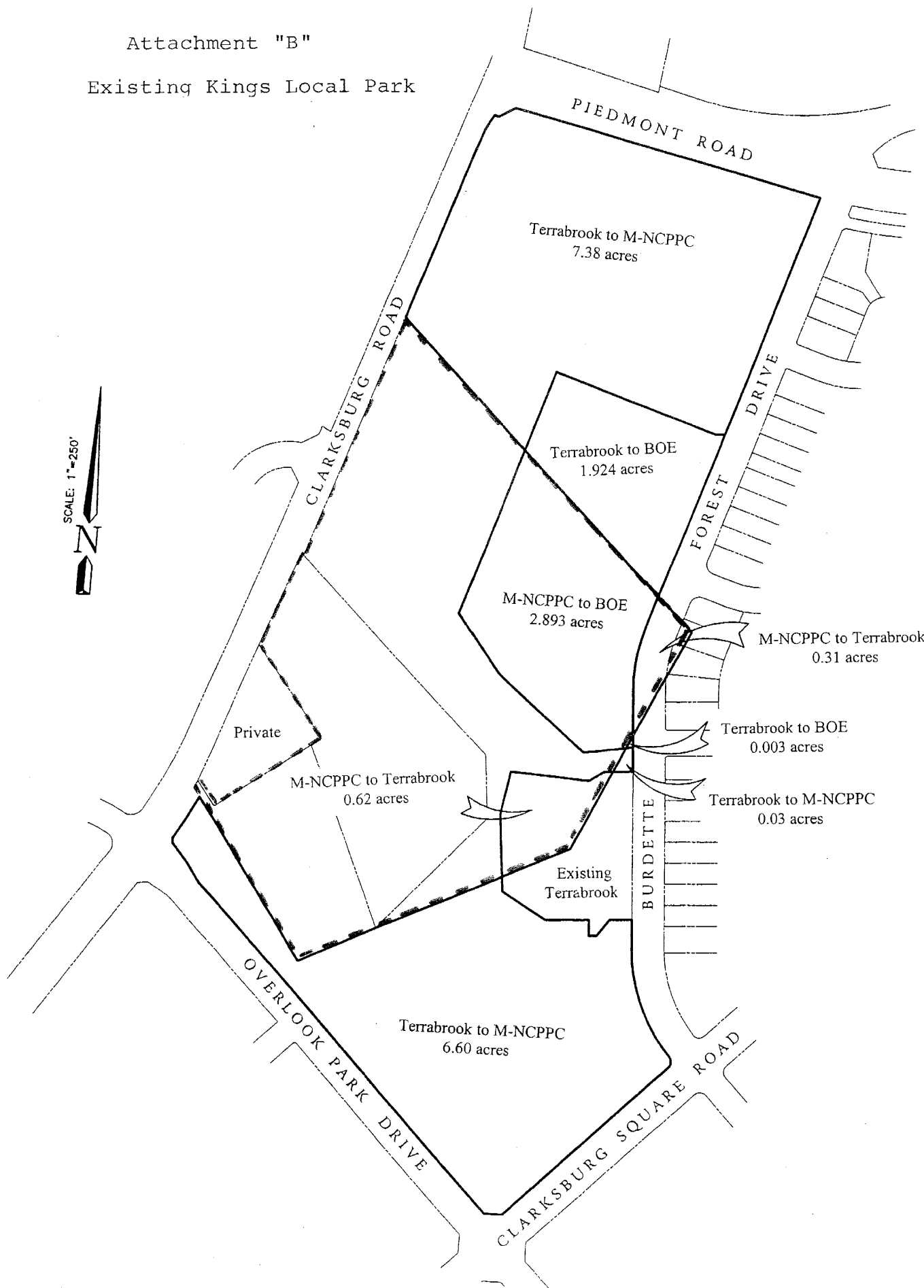
Following approval of this recommended action by the Planning Board, staff will schedule this matter for final approval by the Full Commission. Full Commission approval is necessary since ownership the land to be conveyed is titled in the name of the Commission.

Attachment "A"  
Property Dedications & Conveyances

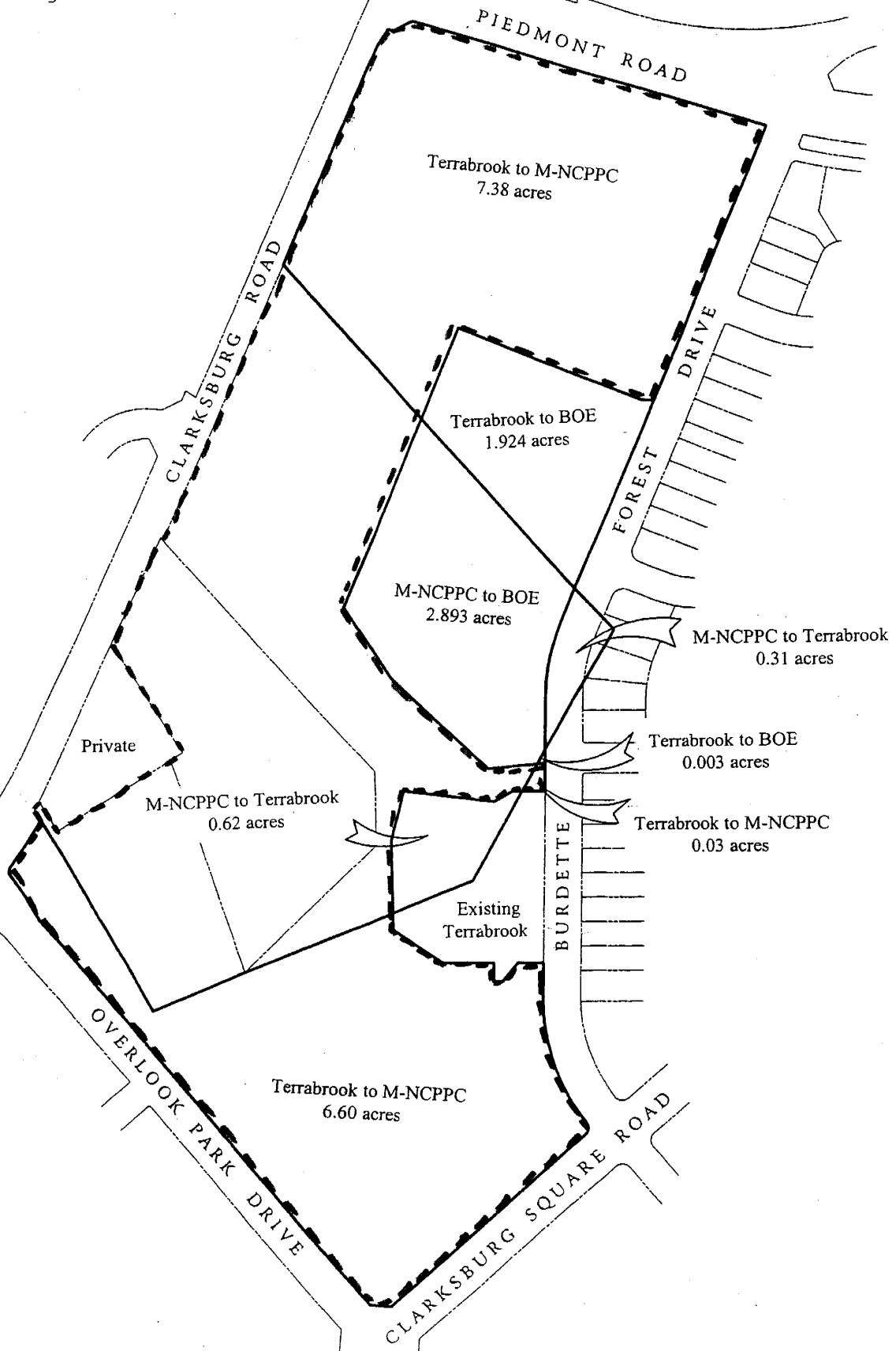
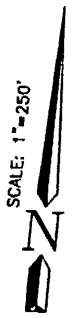


Attachment "B"  
Existing Kings Local Park

SCALE: 1"=250'

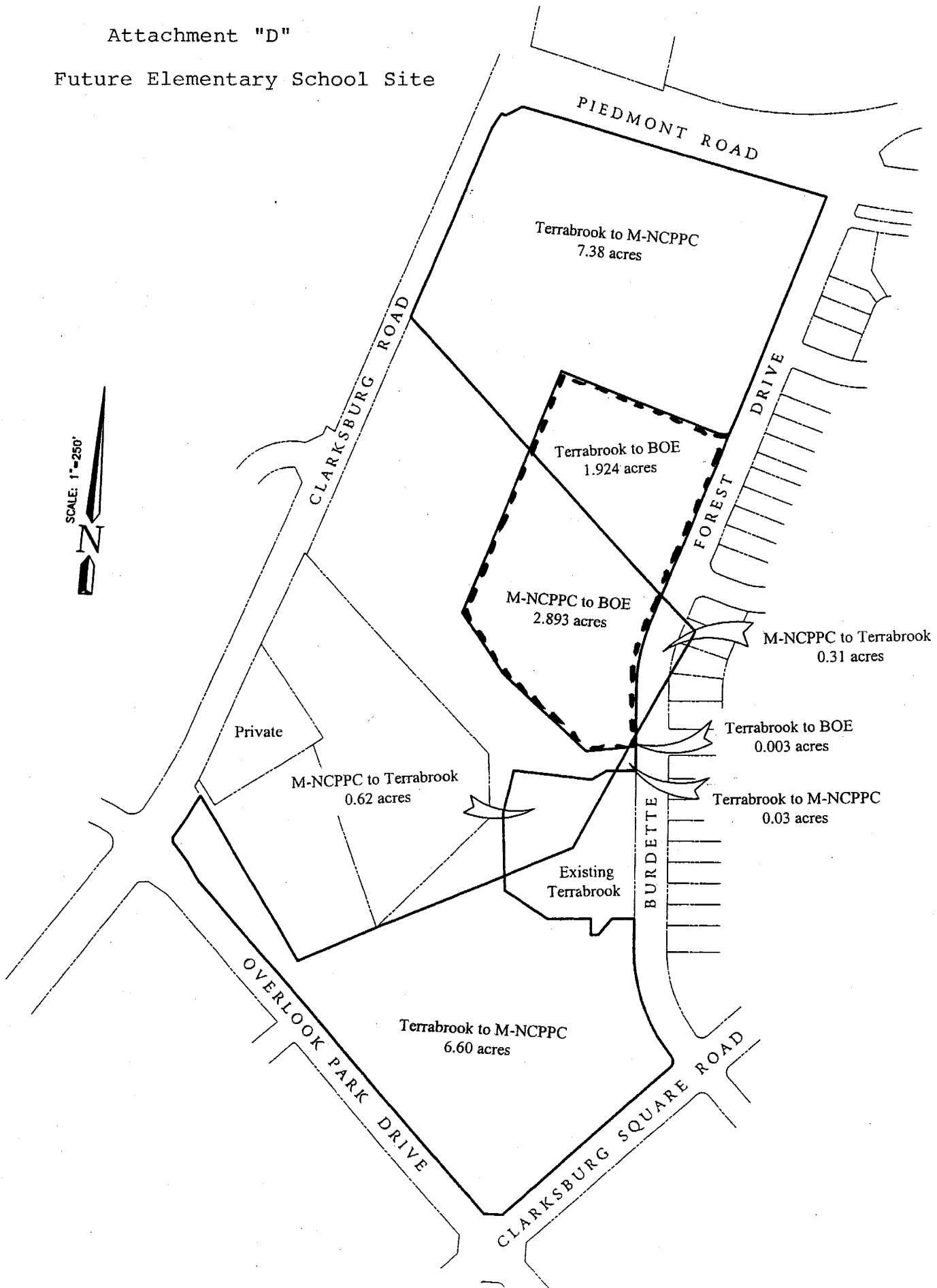


Attachment "C"  
Future Kings Local Park



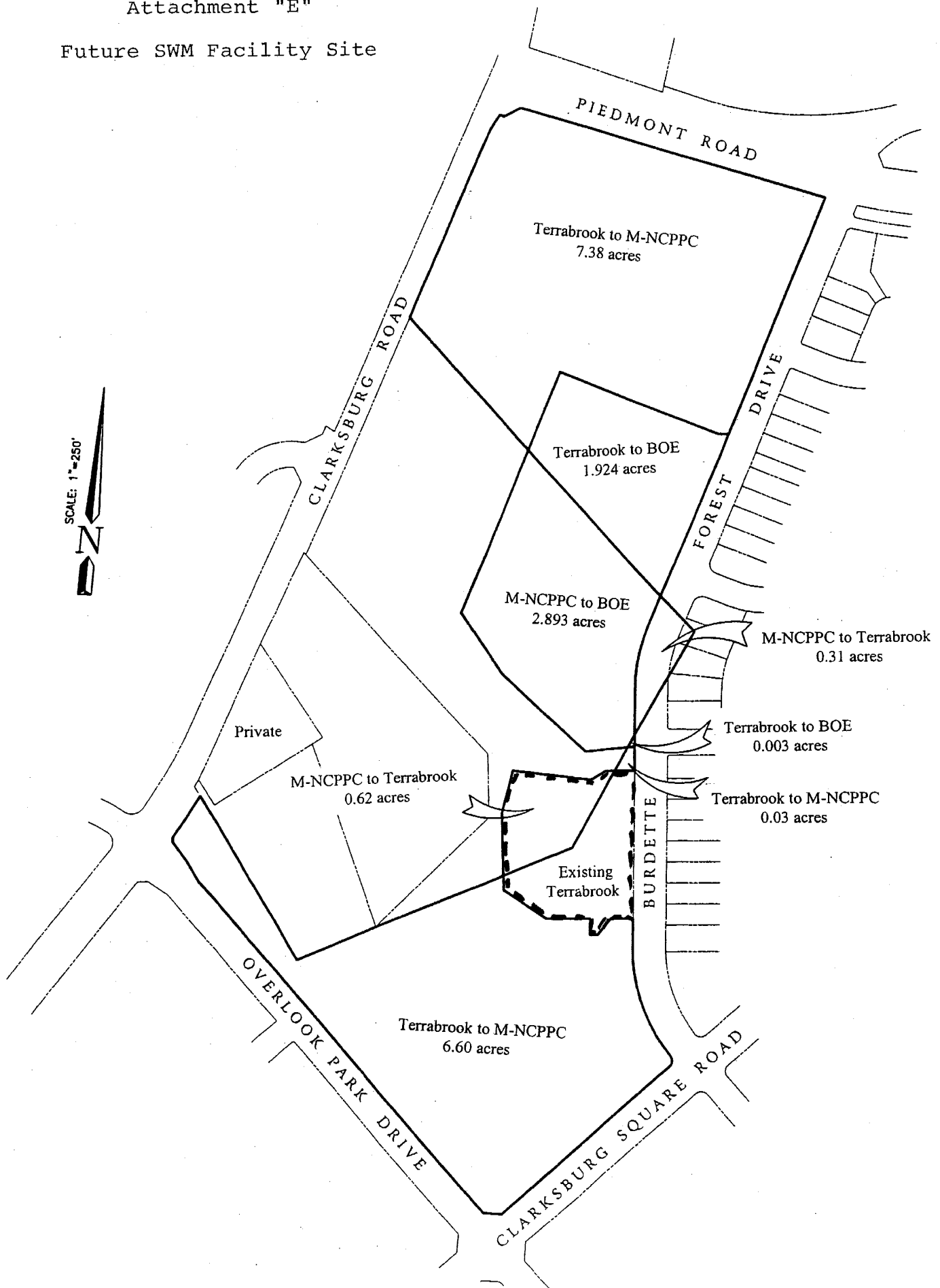
Attachment "D"  
Future Elementary School Site

SCALE: 1"=250'



Attachment "E"  
Future SWM Facility Site

SCALE: 1"=250'





Robert L. Ehrlich, Jr.  
Governor

C. Ronald Franks  
Secretary

Michael S. Steele  
Lt. Governor

**Maryland Department of Natural Resources**

Tawes State Office Building  
580 Taylor Avenue  
Annapolis, Maryland 21401

W. P. Jensen  
Deputy Secretary

August 27, 2003

John Turgeon, Senior Planner  
Maryland National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring MD 20910-3760

RE: Transmittal of Land Conversion Request  
POS #819-15-110, Kings Local Park  
M-NCPPC, Montgomery County

Dear Mr. Turgeon:

We have reviewed your request for a land use conversion of 4.44± acres at Kings Local Park as required in the Annotated Code of Maryland, Natural Resources Article 5-906(e)(7) and (8). "Land acquired or developed under a State grant from Program Open Space may not be converted, without written approval of the Secretary of Natural Resources, the Secretary of the Department of Budget and Management and the Secretary of the Maryland Department of Planning from outdoor public recreation or open space use to any other use. Any conversion in land use may be approved only after the local governing body replaces the land with land of at least equivalent area and of equal recreation or open space value, and for any conversion of land acquired or developed under a State grant from Program Open Space...the appraised monetary value of the land proposed for acquisition shall be equal to or greater than the appraised monetary value of the land to be converted, under the proposed new use of the converted land."

Our combined reviews have been completed. We jointly give our written consent to complete the 4.44± acres land exchange between the M-NCPPC, Montgomery County and Montgomery County Board of Education and Terrabrooke LLC.

Please send Mr. James Price, Director, Program Open Space, a copy of the recorded deeds of transfer incorporating the restrictive covenant of conversion required by State law on the replacement properties and the reversionary clause on the property that is the subject of this conversion at Kings Local Park.

Sincerely,

C. Ronald Franks  
Secretary, Department of Natural Resources

James C. DiPaula, Jr.  
Secretary, Department of Budget and Management

Audrey E. Scott  
Secretary, Maryland Department of Planning





MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

9500 Brunett Avenue  
Silver Spring, Maryland 20901

DRAFT

MCPB 04-  
M-NCPPC 04-

RESOLUTION

WHEREAS, in 1977 Martin Seldeen, Trustee of an unrecorded trust, and Clarksburg Partnership, a Maryland general partnership, conveyed to The Maryland-National Capital Park and Planning Commission (Commission), a parcel of land (hereinafter "trust/partnership" property) identified in Montgomery County Tax Records as Tax Account Number 2-1-1796484, containing 8.88874 acres, unimproved, by deed recorded in Liber 5025 at Folio 654 among the Land Records of Montgomery County, which land was acquired by the Commission for Kings Local Park; and

WHEREAS, the Montgomery County Planning Board's approval of Preliminary Plan #1-95042 (mailed on March 26, 1996) and Site Plan #8-02014 (mailed on June 17, 2002) for the Clarksburg Town Center Project, included among other things, provisions being made for an elementary school site to be owned by Montgomery County Public Schools (MCPS), the relocation of certain ball fields to be owned by the Commission for use by the Commission and MCPS, the construction of a stormwater management quality control facility to be utilized by the Commission for the relocated ball fields and a portion of Kings Local Park and MCPS for the school site, and the construction of a roadway providing ingress and egress to the Clarksburg Town Center community; and

WHEREAS, to satisfy the conditions of the abovementioned Planning Board approvals relative to the park/school facility, the Commission, MCPS, and the developer, Terrabrook Clarksburg, LLC, (Terrabrook) have identified acreage that is to be dedicated by Terrabrook to the Commission, and the acreage that is to be involved in a multi-party exchange of real estate involving the Commission, MCPS and Terrabrook; and

WHEREAS, after all dedications have been made and all exchanges of property have occurred, the respective parties will have benefitted as follows: the Commission will receive a total of 14.01 acres from Terrabrook; the MCPS will receive a total of 1.927 acres from Terrabrook and a total of 2.893 acres from the Commission; and Terrabrook will receive a total of 0.93 acres from the Commission, all as shown on Exhibit "A" attached; and

WHEREAS, the Commission, the MCPS and Terrabrook will enter into a Land Exchange Agreement to evidence their agreement regarding the deeding of properties owned by the existing owners to effect the land exchange transaction, the entering into of a construction and grading agreement among the parties to allow development work to commence on these properties and to address future issues concerning the use of these parcels and other matters relating to the land exchange transactions; and

WHEREAS, the above mentioned conveyance of Commission owned land to MCPS and Terrabrook within the above described "trust/partnership" property, as shown on Exhibit "A" will facilitate the implementation of the park/school objective intended to be achieved through the development of the Clarksburg Town Center Project; and

WHEREAS, the Montgomery County Planning Board received and considered a recommendation from staff of the Commission at its regularly scheduled meeting on Thursday, March 29, 2004 that the properties to be conveyed to MCPS and Terrabrook are not needed for park purposes or other public purpose of the Commission and that these conveyances of property are in the public interest; and

WHEREAS, on Thursday, March 29, 2004 the Montgomery County Planning Board concluded that the properties to be conveyed are no longer needed for park purposes or other public purpose under Article 28, Annotated Code of Maryland; and

WHEREAS, the Montgomery County Planning Board approved the herein described conveyance of 2.893 acres to MCPS and 0.93 acres to Terrabrook, in fee simple;

NOW THEREFORE BE IT RESOLVED, that pursuant to Section 5-111, Article 28, Annotated Code of Maryland, The Maryland-National Capital Park and Planning Commission hereby declares that the 2.893 acres to be conveyed to MCPS and the 0.93 acres to be conveyed to Terrabrook, in fee simple, as described herein, are not needed for park purposes or other public purpose under Article 28, Annotated of Maryland; and

BE IT FURTHER RESOLVED, that pursuant to Article 28, Annotated Code of Maryland, The Maryland-National Capital Park and Planning Commission hereby approves the conveyance of 2.893 acres to MCPS and 0.93 acres to Terrabrook, as described herein, for no monetary consideration but for public benefits resulting from the multi-party land exchange conditioned in the development plan approvals for the Clarksburg Town Center Project.

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of a resolution by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, with Commissioner's \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ voting in favor of the motion, at its regular meeting held on Thursday, March 24, 2004 in Silver Spring, Maryland.

\_\_\_\_\_  
Trudye Morgan Johnson  
Executive Director