

**ONTARIO
MUNICIPAL BOARD**

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Abode Varsity Living Inc
Appellant: Loblaw Properties Ltd.
Appellant: Silvercreek Guelph Developments Ltd. et al;
Appellant: Thomasfield Homes Limited
Appellant: Lambden Farm Trust
Appellant: Dr. Hugh Whiteley
Subject: Official Plan Amendment No. 48
Municipality: City of Guelph
OMB Case No.: PL140042
OMB File No.: PL140042

MINUTES OF SETTLEMENT

BETWEEN:

HUGH WHITELEY

and

THE CORPORATION OF THE CITY OF GUELPH

and

THE GRAND RIVER CONSERVATION AUTHORITY

WHEREAS Hugh Whiteley (Appellant) has appealed to the Ontario Municipal Board ("OMB") under s. 17(36) of the *Planning Act*, R.S.O. 1990 c. P.13, as amended, from the decision of the Ministry of Municipal Affairs and Housing approving Official Plan Amendment Number 48 ("OPA 48") (the "Whiteley Appeal");

AND WHEREAS the Whiteley Appeal concerns, *inter alia*, the redesignation of lands of an 8 hectare parcel owned by the Grand River Conservation Authority and located at Pioneer Trail and Niska Road in Guelph with the legal description of PT LT 13 CON 5 Puslinch PT 1, 61R1483; Guelph shown in Schedule "A" hereto as the Subject Property ("Subject Site");

AND WHEREAS the Grand River Conservation Authority (the "GRCA") owns the former Kortright Waterfowl Park lands and an additional 43 acres which are shown in Schedule "B" hereto as the GRCA Land Holdings ("Niska Lands");

AND WHEREAS Laura Murr and the GRCA were granted party status in respect of the Whiteley Appeal as it concerns the Subject Site;

AND WHEREAS Laura Murr raised a number of issues and is sheltered under the Whiteley Appeal;

AND WHEREAS the issues for the Whiteley Appeal are identified in a Procedural Order issued by the Board, dated January 8, 2018;

AND WHEREAS the Corporation of the City of Guelph (the "City"), the GRCA and the Appellant wish to resolve the issues relating to the Whiteley Appeal, including the issues raised by Laura Murr;

AND WHEREAS the GRCA has initiated the process to draft a management plan in respect of the Niska Lands ("Management Plan");

AND WHEREAS the GRCA Board passed a resolution directing GRCA staff to complete its Management Plan of the Niska Lands before declaring any of those lands surplus;

AND WHEREAS all the parties believe that the public interest is served by opportunities for the public to understand and comment on the decisions of the City and the GRCA;

NOW THEREFORE in consideration of the sum of Two Dollars (\$2.00) paid by each of the Parties to the other, and for other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the parties hereby agree as follows:


1. Dr. Hugh Whiteley agrees to withdraw the Whiteley Appeal in respect of the redesignation of the Subject Site.
2. The GRCA agrees to provide notice to the public and an opportunity for public comments in the decision-making process in respect of its Management Plan for the Niska Lands in the following ways:
 - (a) The GRCA shall design a webpage which shall have the function of keeping the public informed in respect of the drafting of the Management Plan:
 - (i) An overview of the process leading up to the drafting of the Management Plan;

- (ii) A draft of the Management Plan when it is available;
 - (iii) Posting notice of any public meeting of the GRCA Board where the Management Plan will be considered; and
 - (iv) The ability for visitors to the webpage to subscribe and receive notice of meetings or new information posted to the webpage.
- (b) The GRCA shall release a draft of the Management Plan at least 30 days before it holds a meeting to consider it; however, the GRCA may redact the draft Management Plan it releases to the public for the sole purpose of protecting the confidentiality of any legal advice received and any financial information which, if publicly released, could prejudice it in negotiations for the leasing, sale or purchase of any of its lands;
- (c) The GRCA Board shall receive written and oral comments in respect of the draft of the Management Plan and consider any resolutions it may find advisable in light of the public comments it receives, and staff will recommend that the GRCA Board not adopt the draft management plan at that meeting;
- (d) The GRCA shall provide 30 days' notice of any GRCA Board meeting to consider the adoption of the Management Plan, and that notice shall clearly state that the Management Plan will be considered at that meeting;
- (e) The GRCA shall provide 30 days' notice before any GRCA Board meeting to consider declaring the Subject Site surplus;
- (f) The GRCA shall provide 30 days' notice in advance of any GRCA Board meeting to consider an offer for the purchase of the Subject Site where the City chooses not to purchase same; and
- (g) The GRCA shall provide the City with copies of the publically released draft of the Management Plan and the approved Management Plan by sending them to the Clerk of the City at the same time as those documents are posted to the webpage referred to above.
3. Provided that the Management Plan is approved by the GRCA Board, the City and the GRCA agree to establish a joint working group which shall include members of the public, to consider the implementation of the trails system on the GRCA lands as shown as the Modified GRCA Land Holdings in Schedule "C" attached hereto. The working group shall consider, among other things, the function, location and character of trails.
4. These Minutes of Settlement resolve all the issues of Dr. Whiteley, including the issues of Laura Murr, with respect to the Subject Site, and all remaining issues of Dr. Whiteley in the appeals of the City's Official Plan Amendment #48, save and except for those in a motion filed November 24, 2017. Nothing in these Minutes

of Settlement is intended to prejudice or fetter the City, or constitutes an admission from the City, with respect to its response to the motion filed November 24, 2017.

5. The execution of these Minutes of Settlement by the City and the GRCA shall not be deemed to give any assurance with respect to any statutory power of decision, discretionary decision, or any other approval of Council for the City or the Board of Directors of the GRCA, including where authority of one of those bodies is delegated to another person. The City, the GRCA and the Appellant hereby agree that none of the provisions of these Minutes of Settlement is intended to operate, nor shall have the effect of operating, in any way to fetter either the Board of Directors of the GRCA or the Council for the City which authorized the execution of these Minutes of Settlement, or its successor bodies, or any duly authorized officer of the City or the GRCA, in the exercise of any discretionary power, duty or authority, whether under statute or at common law. The Appellant hereby acknowledges that it will not obtain any advantageous planning, servicing, financial or other consideration or treatment by virtue of their having entered into these Minutes of Settlement or by virtue of the existence of these Minutes of Settlement.
6. Nothing in these Minutes of Settlement derogate from and are only meant to supplement the Ministry of Natural Resources and Forestry Policies and Procedures for Disposition of Conservation Authority Property (1997).
7. These Minutes of Settlement shall be binding upon and enure to the benefit of the parties hereto, their successors and assigns.
8. These Minutes of Settlement shall be governed by, subject to and construed in accordance with the laws of the Province of Ontario.
9. These Minutes of Settlement may be executed by the parties in several parts of the same form and may be delivered by facsimile or other electronic means and all such counterparts, facsimiles, or other electronic means shall together constitute one and the same document and shall be read together and construed as if all the signing parties hereto had executed one copy of these Minutes of Settlement.
10. Each party shall bear their own costs in respect of the matters dealt with in these Minutes of Settlement.

IN WITNESS WHEREOF the Parties have executed these Minutes of Settlement.



Hugh Whiteley

Dated at Guelph, Ontario this 14 day of March, 2018.

**THE CORPORATION OF THE CITY OF
GUELPH**



Per: _____

City Solicitor
(I have authority to bind the Corporation)

Dated at Guelph, Ontario this 14th day of March, 2018.

**THE GRAND RIVER CONSERVATION
AUTHORITY**

Per: _____

(I have authority to bind the Grand River
Conservation Authority)

Dated at Guelph, Ontario this _____ day of _____, 2018.

Dated at Guelph, Ontario this _____ day of _____, 2018.

**THE CORPORATION OF THE CITY OF
GUELPH**

Per:

City Solicitor
(I have authority to bind the Corporation)

Dated at Guelph, Ontario this _____ day of _____, 2018.

**THE GRAND RIVER CONSERVATION
AUTHORITY**



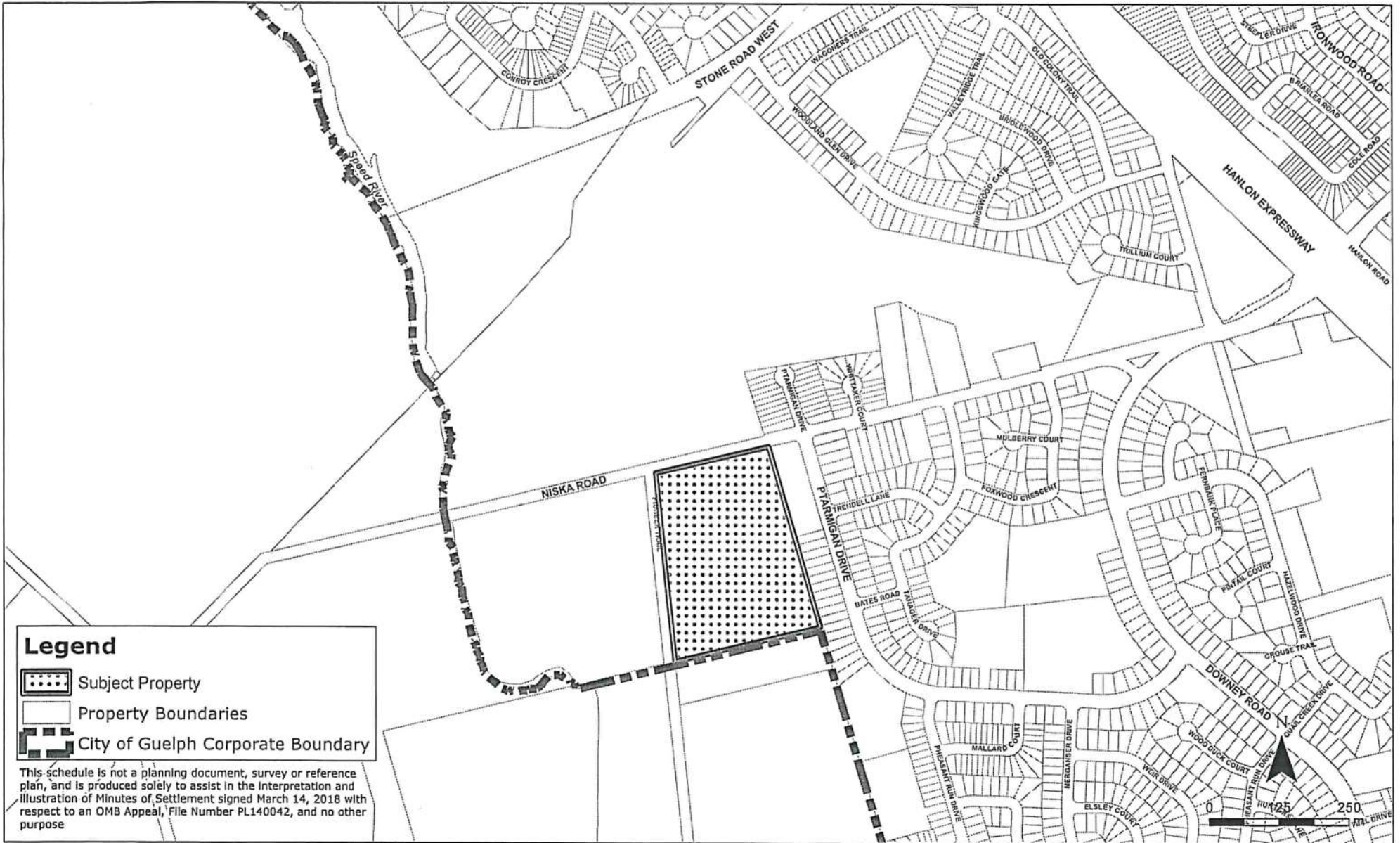
Per:

(I have authority to bind the Grand River
Conservation Authority)




Dated at Guelph, Ontario this 14 day of MARCH, 2018.

Schedule A

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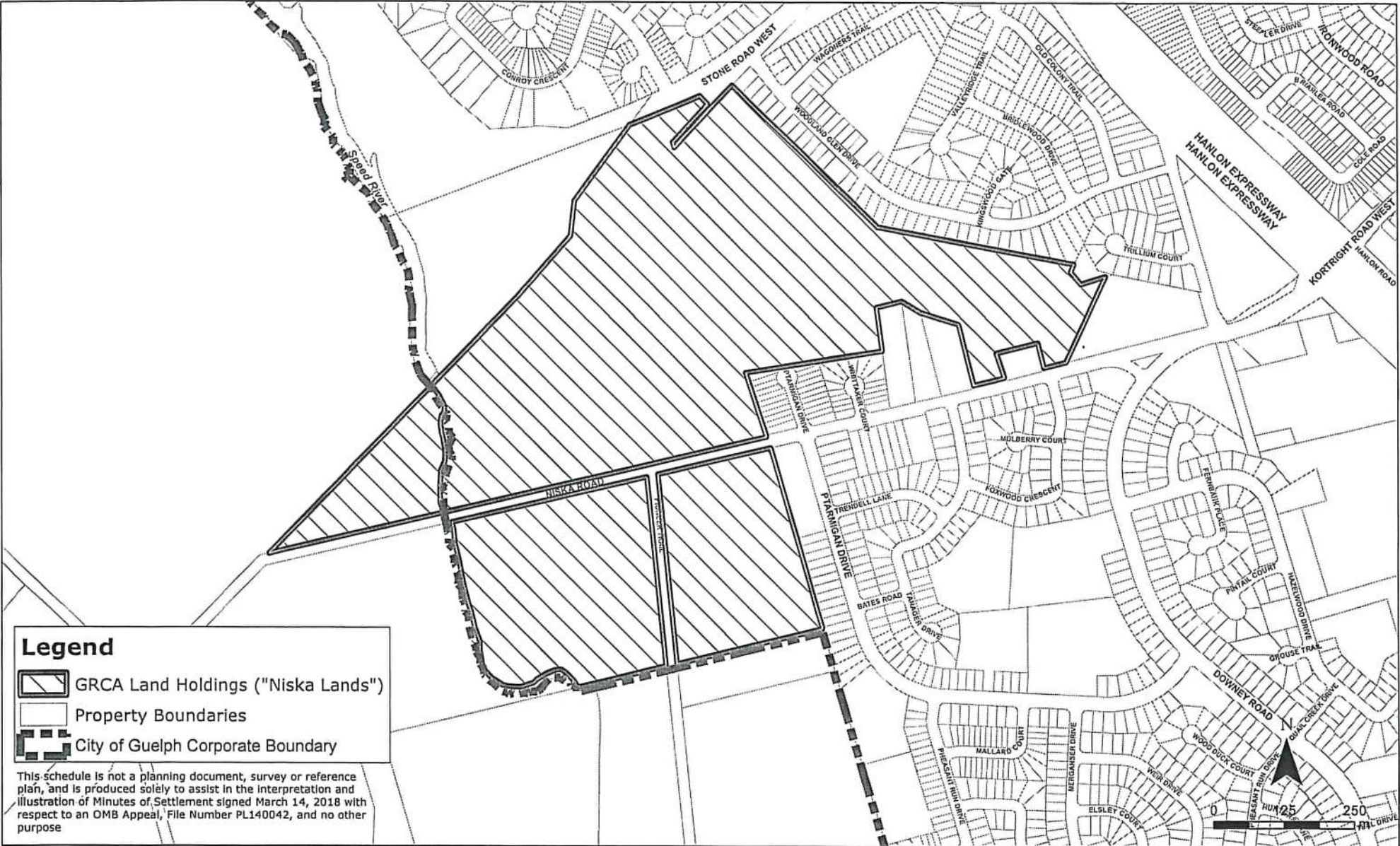


Legend

-  Subject Property
-  Property Boundaries
-  City of Guelph Corporate Boundary

This schedule is not a planning document, survey or reference plan, and is produced solely to assist in the interpretation and illustration of Minutes of Settlement signed March 14, 2018 with respect to an OMB Appeal, File Number PL140042, and no other purpose

Schedule B



Legend

-  GRCA Land Holdings ("Niska Lands")
-  Property Boundaries
-  City of Guelph Corporate Boundary

This schedule is not a planning document, survey or reference plan, and is produced solely to assist in the interpretation and illustration of Minutes of Settlement signed March 14, 2018 with respect to an OMB Appeal, File Number PL140042, and no other purpose

Schedule C

OMB File No: PL140042

