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October 21, 2005

Dear Michael,

**Re: The Baker Street Burial, City of Guelph (our file 05-85)**

As you know, my firm has been investigating the discovery of a burial on Baker Street in the City of Guelph. I am writing to detail the results of that investigation.

Last week a sink hole opened up adjacent to the sidewalk on the west side of Baker Street, a three-lane road in the downtown part of the City of Guelph. The municipal parking lot across the road has always been known to be the site of the Public Burying Ground of the early Town of Guelph; that cemetery dates to the first half of the 19<sup>th</sup> century.

Last Thursday, on October 13, a crew from the City of Guelph Public Works Department came to investigate the sink hole and one of the workers noticed what he thought were toe bones in the loose sand under the pavement. Further investigation recovered the greater part of a human skeleton. In accordance with the Cemeteries Act, the City of Guelph notified the Guelph Police Department, the Wellington County Coroner and your office.

The Guelph Police Department conducted an investigation on the day of the discovery. It included the excavation of a cavity under the sidewalk to recover additional bone from the west end of the burial. The cranium was in the west end of the grave, beneath the curb and gutter. In consultation with Dr. Naido, the Wellington County Coroner, the Police then removed the remains to the police station at 15 Wyndham Street North. The remains were examined by the Coroner. He stated that the burial was 150-200 years old.

As it evolves, the City of Guelph intends to construct an underground parking lot on the site of the current municipal parking lot located across the road from the burial. The current municipal parking lot is a paved lot triangular in shape. It is bounded to the west by Baker Street, to the south by Chapel Lane, and to the east by a lane that is not signposted but is generally considered to be a northern extension of Chapel Lane. Finally, the municipal parking lot is bounded to the north by a short thoroughfare called Park Lane.

The proposed underground parking lot is scheduled to be constructed next year. City staff are well aware that the existing parking lot is the site of the Public Burying Ground, and that the concern for unmarked graves is an important issue for the proposed construction. As part of the planning process for the proposed underground parking, in 2000, Lois Payne, the City Solicitor sent information on the Public Burying Ground and the proposed construction to the then-Registrar, Cora Della Cruz. I believe Ms Payne also spoke to you on the matter in June 2001. Our investigations clearly show that the burial discovered last week on Baker Street formed part of that cemetery. Accordingly, the information the City Solicitor provided your office should help inform your decisions with respect to the recent discovery of the burial.

As mentioned above, following the discovery of the burial last week City staff contacted you to report the discovery. In response to your request that an investigation be conducted, the City of Guelph contracted my firm to carry out the investigation. On Friday, October 14, a crew of two under the direction of Jim Sherratt of my firm investigated the sink hole to conduct a first-hand assessment of the discovery.

Further to the above, in my capacity as Project Manager for the investigation, I have spoken by telephone to several individuals to obtain further information on the discovery, and to coordinate the investigations. They included the following: Derek McCaughan, Director of Public Works; Lois Payne, City Solicitor; Roy Garbotz, Supervisor of Waste Water; and Constable John Valessi, City of Guelph Police Department. In addition, a series of plans and maps were provided by Ian Panabaker, Heritage/Urban Design Planner, Planning and Building Services, City of Guelph. Finally, Lois Payne, the City Solicitor, kindly copied me the information on the Public Burying Ground that she had forwarded to your office.

Our report on the investigations of the burial has been divided into three sequential sections. The first provides some background information on the cemetery. The second details the results of our investigations of the burial. The third concerns the investigations of the burial by the forensic anthropologist. They are detailed below.

## **Background Research**

As mentioned above, it has always been known that the triangular block which contains the current municipal parking lot across the road from the burial is the site of the Public Burying Ground. The cemetery was established by the Canada Company in 1827, the year Guelph was founded.

Figure 1 shows the location of the burial discovered in the sink hole on Baker Street. Figures 2-7 show various plans and views of the Public Burying Ground from 1827 to 1906.

Reference to this cemetery is contained in the Wellington County history by Hutchinson (n. d.:20), as follows:

Around the Old Anglican Church on St. George's Square, there was an Anglican Cemetery, and on an adjoining piece of land, there was another cemetery, for others who were not Anglicans. It was located in the area of the Baker Street Parking lot. Graves from these two cemeteries were removed from their downtown location, to the New Union Cemetery, the site now known as Woodlawn Cemetery.

In 1879, these two old cemeteries were declared "legally closed," by an Order-in-Council of the Ontario Legislature. But it was 1891 before a "Quit Claim Deed" was given for a sum of \$500 for the property. The Town and Township of Guelph paid equally for the removal of the bodies and stones to the new Cemetery. Baker Street was not opened until after the old cemetery was moved.

...Woodlawn Cemetery was created in 1854 with the first burial in January, 1854.

A useful history of the Public Burying Ground is presented in a letter of April 8, 1949 from R. B. Hungerford, the City of Guelph Solicitor, to L. M. Stewart, the Medical Officer of Health for Guelph. It was evidently written following the discovery of what were thought to be human bones. A copy of that letter is attached. Copies of the pertinent legislation cited by Hungerford are also attached. Key information from Hungerford's letter is summarized below.

The first paragraph of the letter is directly relevant to the burial discovered on Baker Street as it speaks to the issue of the potential for unmarked graves in general. It reads as follows:

I have your letter of April 2<sup>nd</sup> and am making a rather lengthy report so that there need be no further misunderstanding about the fact that human bones still remain in the old burying ground. The Burying Ground lying to the southwest of upper Wyndham Street was the property of the Canada Company and was laid out in 1827 as a public burying ground on the Canada Company's survey. It was not an official cemetery and was not the property of the Town of Guelph although no doubt most people who died in the town between 1827 and 1855 were interred in that public burying ground.

R. B. Hungerford's 1949 letter further states that Bylaw 33 which the Town of Guelph passed on December 5, 1853 prohibited any further burials within the town limits except for the newly-created Union Cemetery (now Woodlawn Cemetery). Accordingly, the use of the Public Burying Ground spanned a maximum of 26 years, from 1827 to 1853.

Although the last legal burial in the Public Burying Ground would date no later than 1853, the cemetery was not formally closed until 1879, 26 years later. Hungerford's letter provides some key information on the formal closing of the Public Burying Ground, as follows:

In 1879 by Chapter 88 of the Ontario Statutes, (in) an act respecting the public burying ground in the Town of Guelph, it was recited that the burying ground had not been used for burial purposes for more than 25-years past and that nearly all the dead had already been removed and that many persons were making use of the land for private purposes and it was enacted that the old burying ground should become the property of the City to be used as a public park. Permission for the removal of the bodies there remaining to the Union Cemetery and St. George's Cemetery was given to the Town of Guelph and Section 3 of the Act quoted hereunder provides for the manner of such removal...

I believe that following this Act, those bodies which had not already been removed by the relatives of the dead and which were identified by head stones or otherwise were removed to the Union Cemetery or St. George's Cemetery but that there were no doubt a number of bodies which were not identified by head stones or otherwise and the location of which was unknown and unidentifiable. As a result, there are in fact human remains still in the land which once constituted the burying ground.

In 1892 a further act was passed regarding the former burying ground allowing the sale of part of the land (which was then a public park) to the Guelph Curling and Skating Rink Company and I believe that in the excavations in connection with the rink and bowling properties, several skeletons or parts of skeletons were encountered in various localities. By this act, which was Charter 72 of the Ontario Statutes 55 Victoria, the old burying ground was absolutely vested in the Corporation of the City of Guelph to be used as a public park or for any other purpose the City Council might from time to time determine, with power to the City to dispose of the whole or any part of it.

In summary, the Public Burying Ground was in use as a cemetery for a period of 26 years, from 1827 to 1853. The property continued to be owned by the Canada Company for another 24 years, until it was purchased by the City for use as a public park in 1879. By the time plans were initiated to move the bodies from the old Public Burying Ground to the new Union Cemetery, 26 years had passed since the last use of the burying ground as a cemetery. Many burials may have been moved by family members in the interim, but many others evidently remained. The property had been put to certain uses during that period of almost a quarter of a century (see below), and without doubt at least some of the headstones that had been left standing in 1853 and had not been moved to the new cemetery were no longer in place by 1879. That would have the effect of increasing the number of unmarked graves, in turn increasing the likelihood that burials would be overlooked when the bodies were moved in 1879.



Chapter 88, the 1879 Act which concerned the purchase of the old burying ground, states the following with respect to land use of the property in the period leading up to the creation of the park: “*many persons living in the neighbourhood of the said parcel are, and have for a long time past been, improperly making use of the same for their private purposes.*” The 1872 Bird’s Eye View provides the earliest visual record of the property in the decade leading up to the creation of the park. As illustrated in Figure 5, a series of eight or so small one-storey structures were located on the property. In addition, the north end of the property appears to have been lightly forested. Most important, the property is depicted as having a rolling topography. That has significant implications for the potential for extant graves within the old Public Burying Ground.

It seems likely that most if not all of the structures depicted on the property in the 1872 Bird’s Eye View were moved or demolished when the public park was created in 1879. The park in the former Public Burying Ground was in use for about a dozen years when part of the property was sold to the Guelph Curling and Skating Rink Company. Given the evidence that the property had a naturally rolling topography, the construction of facilities for the Guelph Curling and Skating Rink Company must have required some landscaping to flatten the space preparatory to construction. In the process, the tops of the knolls would have been levelled in the relevant portion of the property, and the intervening hollows would have been filled in. At present, it is not known how long the Guelph Curling and Skating Rink Company occupied part of the former burying ground. For what it is worth, the 1906 Historic Atlas depicts neither a public park nor a curling club and skating rink on the property. Rather, it identifies what is without doubt the property’s most important historic function: as the “Old Burying Ground” (Figure 7).

Further research would be needed to establish the location and extent of the part of the property impacted by the Guelph Curling and Skating Rink Company. Regardless, it is safe to assume that the “*skeletons or parts of skeletons*” R. B. Hungerford’s 1949 letter mentions as having come to light following the sale to the Guelph Curling and Skating Rink Company represented unmarked graves disturbed in the course of the landscaping in the early 1890s. It may be that some graves were totally destroyed while others were merely truncated.

Granting that graves were impacted by the landscaping and/or construction by the Guelph Curling and Skating Rink Company, reference to the 1872 Bird’s Eye View indicates the impacts may have been limited to unmarked graves on the higher ground. Unmarked graves on the lower slopes of the knolls and in the hollows may simply have been buried. In consequence, there is a high potential for unmarked graves on what were originally lower slopes and hollows in the part of the property purchased by the Guelph Curling and Skating Rink Company in 1892. At some point in time, the part of the property that was a public park was also levelled. Whether that happened when the park was created in the early 1890s or later is irrelevant; the same comments about the potential for surviving unmarked graves also apply to that part of the property.

As the discovery of the burial on the west side of Baker Street last week demonstrates, the potential for unmarked graves relating to the Public Burying Ground extends outside the limits of the municipal parking lot. Comparisons between Figures 1 and 2 shows that the burying ground

established in 1827 was located in a larger triangular parcel of land bounded to the south by Quebec Street, to the west by Yarmouth Street, and to the east by Wyndham Street North. By 1847, two decades after the burying ground was established, lots had been subdivided along the east side of Yarmouth Street, the north side of Quebec Street and the east side of Wyndham Street North (Figure 3). The subdivision of these lots effectively impinged somewhat on the original limits of the Public Burying Ground. However, the 1847 plan shows the burying ground as being surrounded on three sides by what is presumed to have been unopened road allowance. The road allowance to the west of the burying ground is now Baker Street. The 1855 plan illustrated in Figure 4 further shows that these rights-of-way had widths of 75 links. The standard chain in use by 19<sup>th</sup> century surveyors had a length of 66 feet and there were 100 links in a chain. As such, a width of 75 links translates to 49.5 feet, or 15.2 metres. That was the standard width for a certain class of 19<sup>th</sup> century roads in Ontario.

As noted earlier in the quote from Hutchinson (n. d.:20), Baker Street was not opened until after the old cemetery was legally closed in 1879. The discovery of the burial on the west side of Baker Street last week demonstrates that what is now the Baker Street right-of-way was included within the western limits of the Public Burying Ground. Whether the same applies to the Chapel Lane and Park Lane rights-of-way is unknown, but that easily could be the case for them as well. If so, they too could potentially contain unmarked graves.

Further to the above, the grave found last week on the west side of Baker Street is only a few metres from the building that fronts on the street. That would tend to indicate some potential for additional unmarked graves in the building lots fronting on the west side of Baker Street, except for those lots that have structures with cellars. It may also indicate a similar potential for unmarked graves in the building lots fronting on the Chapel Lane and Park Lane.

### **Investigations of Friday, October 14, 2005**

As mentioned earlier, our investigations of the burial at the sink hole were conducted on Friday, October 14. They were carried out by a crew of two under the direction of Jim Sherratt.

The grave discovered by City staff last week was roughly oriented east-west. The eastern half of the grave was within the Baker Street road right-of-way; the western half was located beneath the sidewalk and gutter.

In the course of our investigation last Friday, our staff sifted loose soil from the Police excavations through 6 mm mesh. The screening of the loose soil recovered several small bones that almost certainly relate to the skeleton recovered by the police (that will be confirmed by the forensic anthropologist). Those bones were bagged separately.

In addition, our personnel used trowels to investigate the grave excavated by the police. The results determined that it had vertical sides but a rounded bottom, with no evidence of coffin hardware

or coffin wood. That would tend to suggest the individual was probably buried in a shroud, without a coffin. It would further tend to suggest that this burial may represent a pauper's grave. If so, that would increase the potential that it was an unmarked grave overlooked when the bodies were removed after 1853, when the use of the cemetery stopped, and in 1879 when it was legally closed and additional bodies were moved.

As well as examining the grave investigated by the police, our staff used trowels to clean a profile along the edge of the west face of the sinkhole below the concrete gutter. The results identified two other soil stains, one either side of the grave investigated by the police. We did not excavate those features, but they are oriented parallel to the grave investigated by the police and have the same sandy fill as that grave. Accordingly, the evidence indicates that these two features probably represent two additional graves. In fact, a small quantity of bone was recovered in cleaning the northern feature. Those bones have been passed on to the forensic anthropologist for analysis. If both of these features are confirmed to be graves, the sinkhole revealed a total of three graves, all oriented roughly east-west, and all a metre or less apart.

The southern of the two features we identified appears to be almost entirely under the adjacent sidewalk and gutter. In our opinion, that feature is essentially sealed, and is safe from potential impacts for the foreseeable future. The northern of the two features appears to be almost entirely within the footprint of the sinkhole. In our opinion, that feature could be subject to potential impact from any activities the City of Guelph Public Works Department might undertake to repair the sinkhole.

I should add that before we conducted our investigations last Friday the north end of the sink hole had been covered by soil from the investigation of the nearby burial investigated by City staff and the Police Department. We did not remove that soil to expose the natural subsoil and check for any potential additional grave shafts. However, there is some potential for an additional unmarked grave in that portion of the sinkhole.

### **Investigations by the Forensic Anthropologist**

On the afternoon of Friday, October 14, 2005, our staff visited the Guelph Police Department and took possession of the human bones recovered by the Police Department. They were sealed in a series of Chain of Evidence bags. On Monday of this week I transferred the remains to Dr. Michael Spence, the forensic anthropologist.

Dr. Spence's analysis is in progress; it will be completed by early next week. It is anticipated that his analysis will provide confirmation on whether one or more individuals are represented. It also is anticipated that his analysis will provide information on the gender age and the approximate age of the one confirmed individual in the grave excavated by the City of Guelph Police. Finally, it is expected that his analysis will confirm the burial is that of a Euro-Canadian, consistent with the

use of the Public Burying Ground by the first few generations of 19<sup>th</sup> century residents in what is now the City of Guelph.

Dr. Spence's report should be completed by early next week. He will forward it to you as soon as it is available.

## **Recommendations**

In summary, our investigations determined that the burial discovered last week is located within the Public Burying Ground and that it relates to the first few generations of 19<sup>th</sup> century residents of what is now the City of Guelph who were interred in that cemetery. Our investigations further indicate that two adjacent features exposed by the sinkhole probably represent other unmarked graves that formed part of that historic Euro-Canadian cemetery. Finally, our investigations indicate a potential for another cultural feature under fill in the north end of the sink hole.

Based on our investigation of the burial discovered last week, we have formulated a series of recommendations. All are predicated on the principle that any further archaeological investigations of any burials related to this cemetery conducted on behalf of the City of Guelph will be carried out by a licenced archaeologist in accordance with the provisions of the Cemeteries Act and the Ontario Heritage Act. The recommendations are as follows:

- Firstly, it is probable that future investigations in advance of construction by the City of Guelph within the limits of the former Public Burying Ground will encounter additional unmarked burials. Accordingly, in order to facilitate planning with respect to future works in this part of the city, it is recommended that you identify what measures the City of Guelph should take with your office in the eventuality that any human remains relating to this burying ground should be discovered in the future.
- Secondly, following the analysis of the human bones recovered last week, it is recommended that arrangements be made to have those remains re-interred in a burial plot in Woodlawn Cemetery, or in another suitable location identified by the City of Guelph.
- Thirdly, it is recommended that further archaeological excavations be conducted to determine if the apparent feature identified immediately north of the grave discovered last week is indeed a human burial. If that is confirmed, we further recommend that the burial be disinterred. That recommendation is based on the fact that most of the feature is located within the footprint of the sinkhole, and that the feature could be impacted by the filling of the sinkhole that will be undertaken in the near future by City staff to repair the road and reopen it to traffic.

- Fourthly, it is recommended that archaeological excavations be conducted at the north end of the sinkhole to confirm the presence or absence of a cultural feature or features currently buried under fill.
- Fifthly, it is recommended that no further archaeological excavations be conducted at this time to confirm whether the apparent feature identified immediately south of the grave discovered last week is indeed a human burial. That recommendation is based on the fact that virtually all of the feature appears to be sealed by the adjacent sidewalk and gutter, and as such the feature is protected from the potential threat of impacts for the foreseeable future.

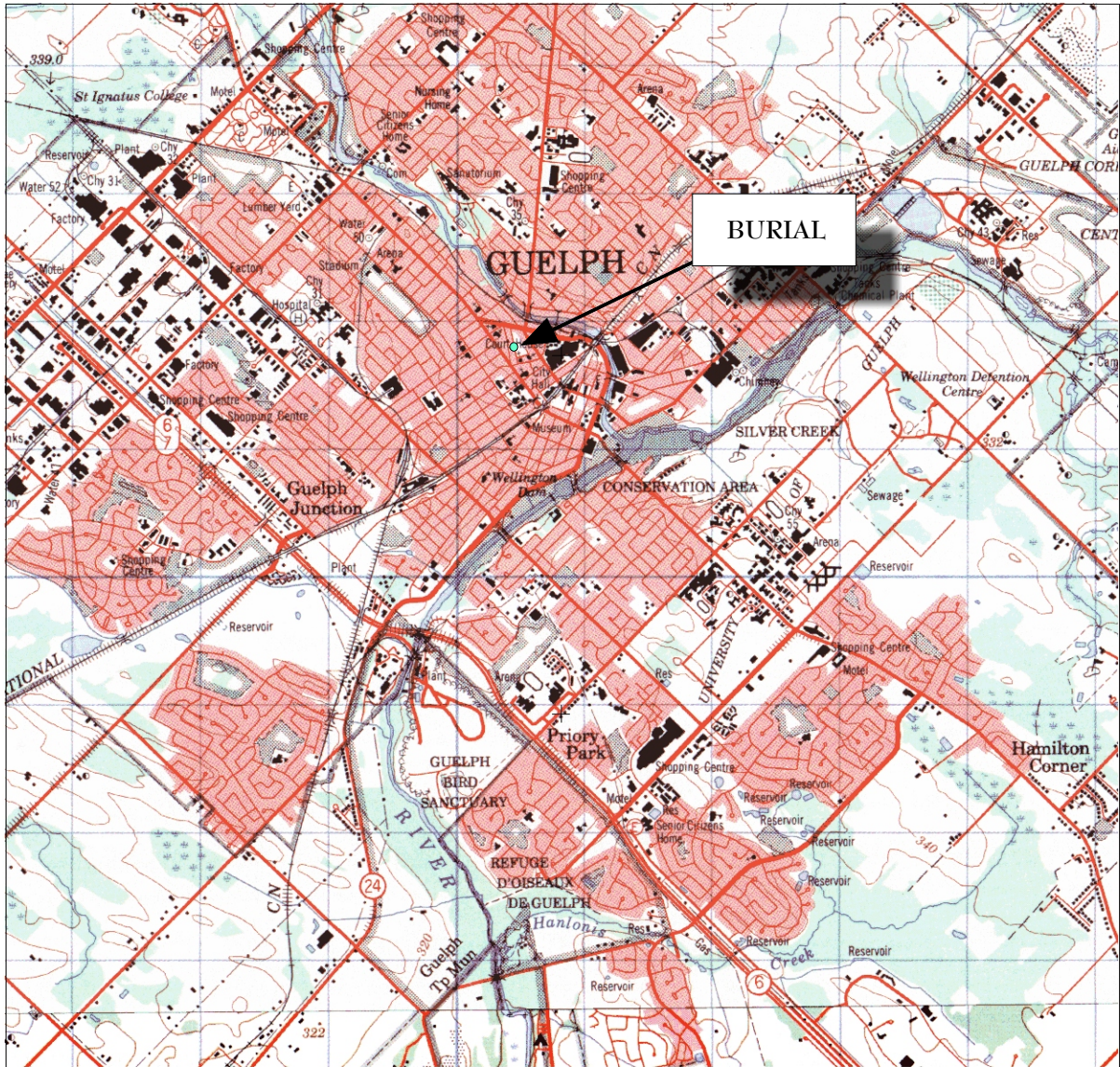
I trust that this letter report will provide you with the information you require. Do not hesitate to contact me if you should have any questions concerning the matter.

Yours sincerely,

Dana R. Poulton  
President

Cc Derek McCaughan, Director of Public Works, City of Guelph  
Lois Payne, City Solicitor, City of Guelph  
Dr. Michael Spence, Forensic Anthropologist  
John MacDonald, Heritage Planner, Ministry of Culture





**Figure 1** Location of the Baker Street Burial



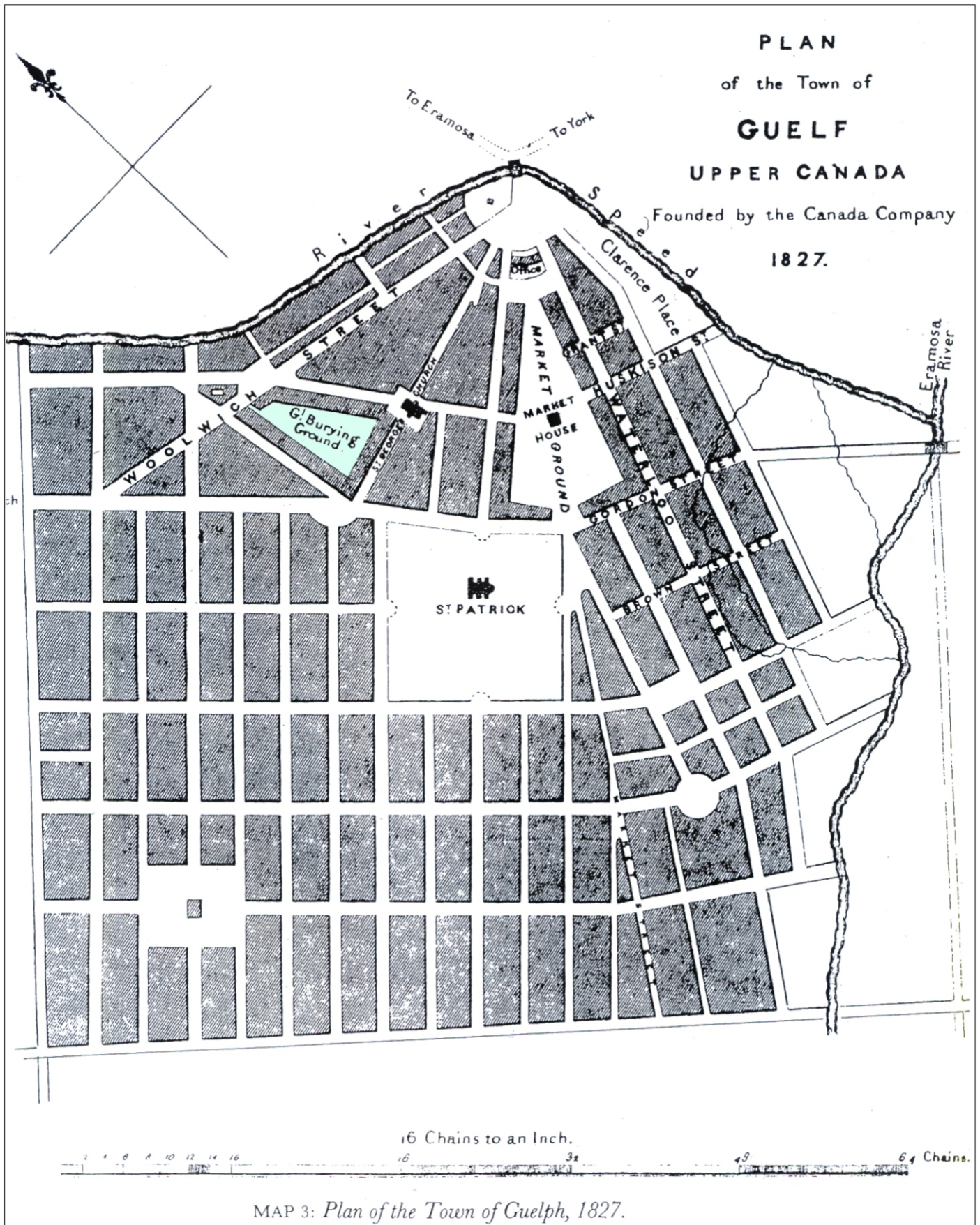
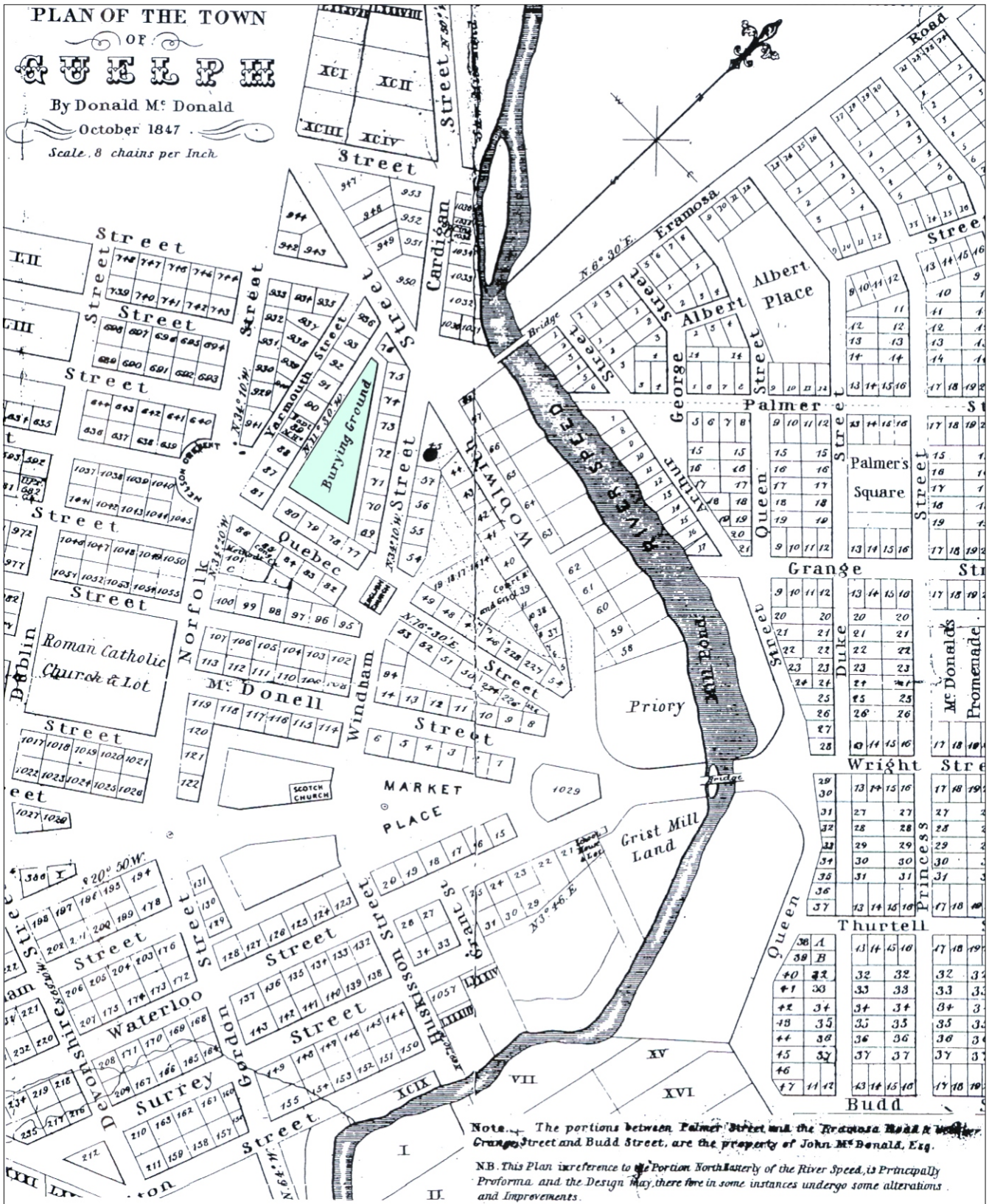


Figure 2 The Public Burying Ground: 1827 Plan





**Figure 3** The Public Burying Ground: 1847 Plan



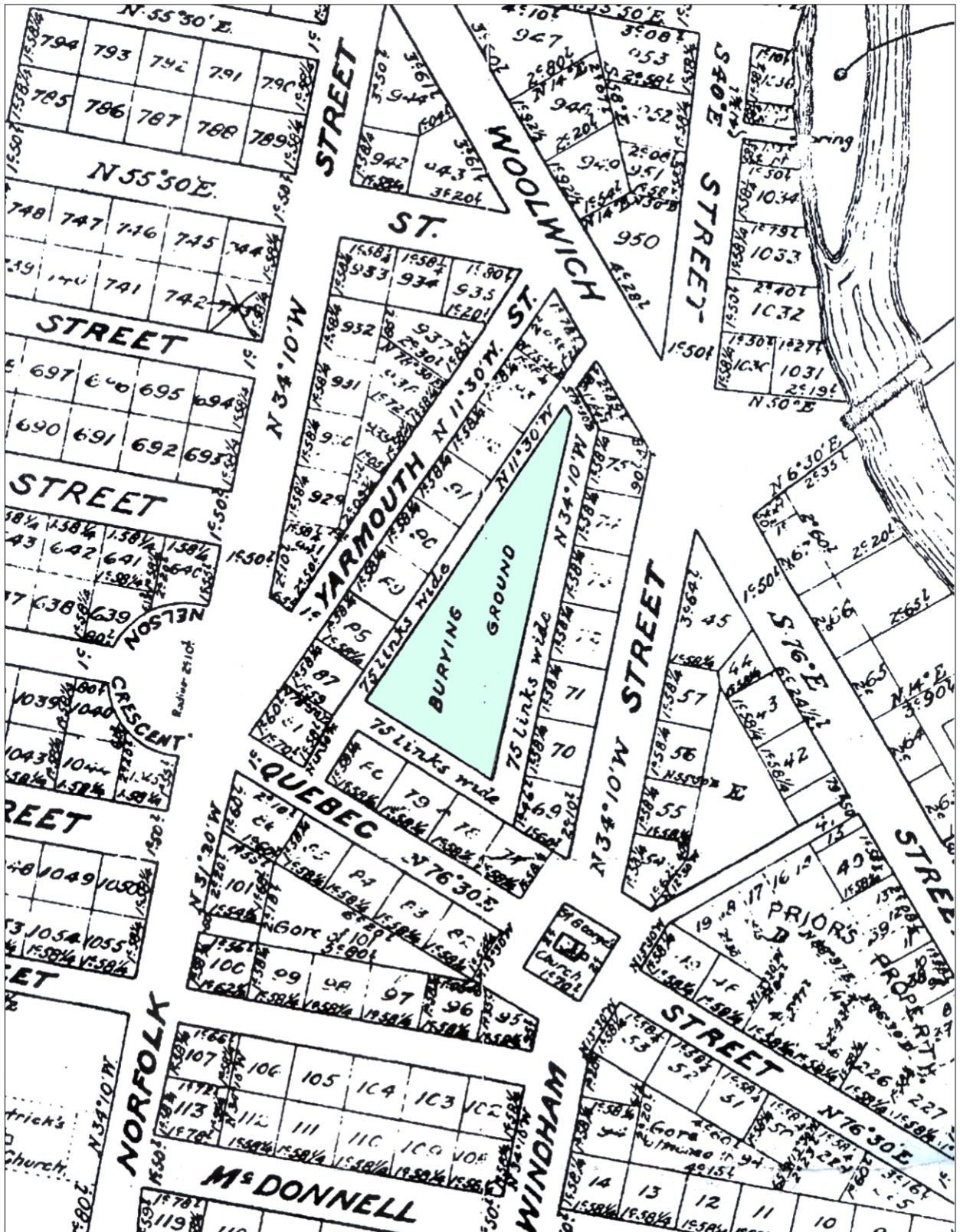


Figure 4 The Public Burying Ground: 1855 Plan



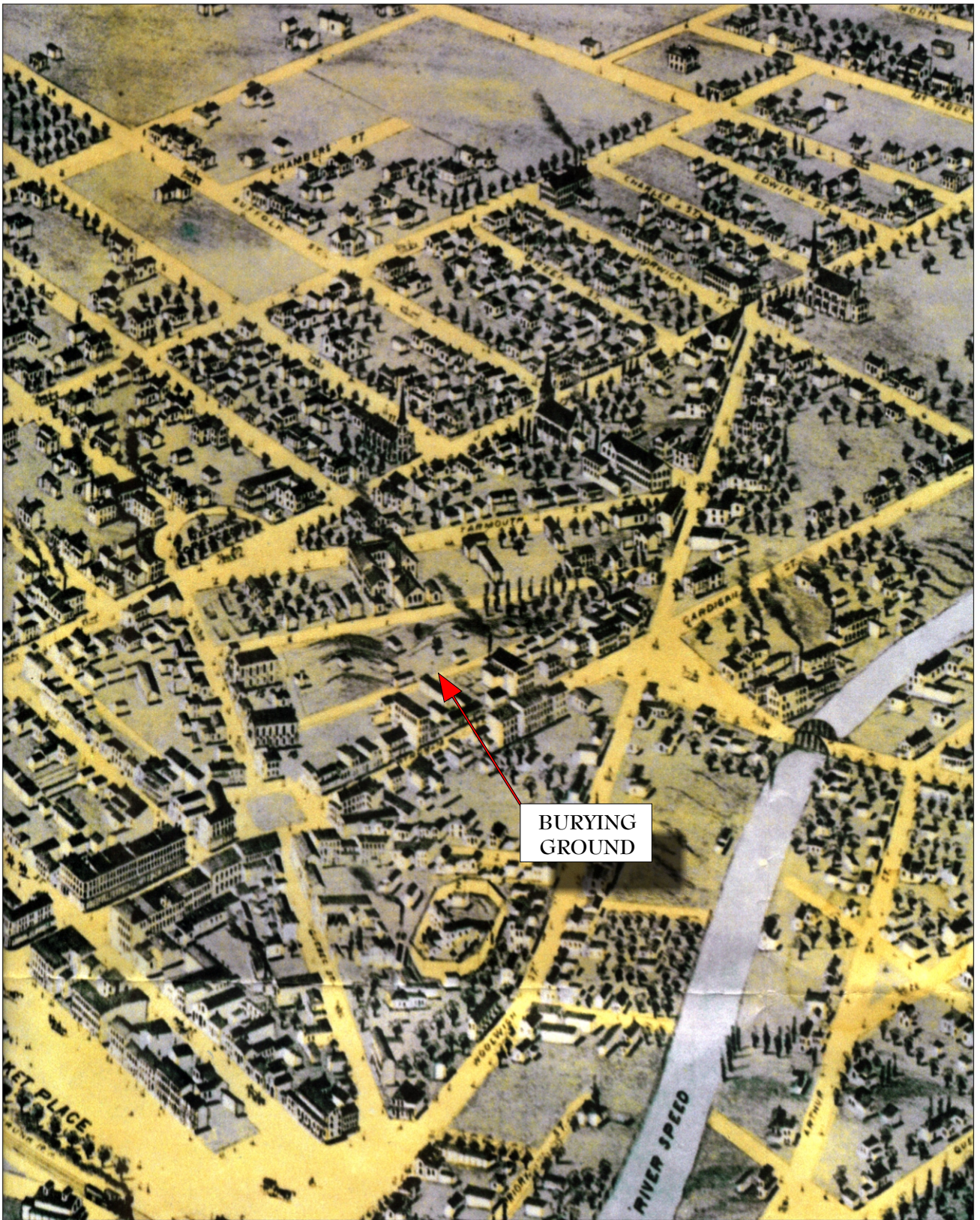


Figure 5 The 1872 Bird's Eye View: The Public Burying Ground



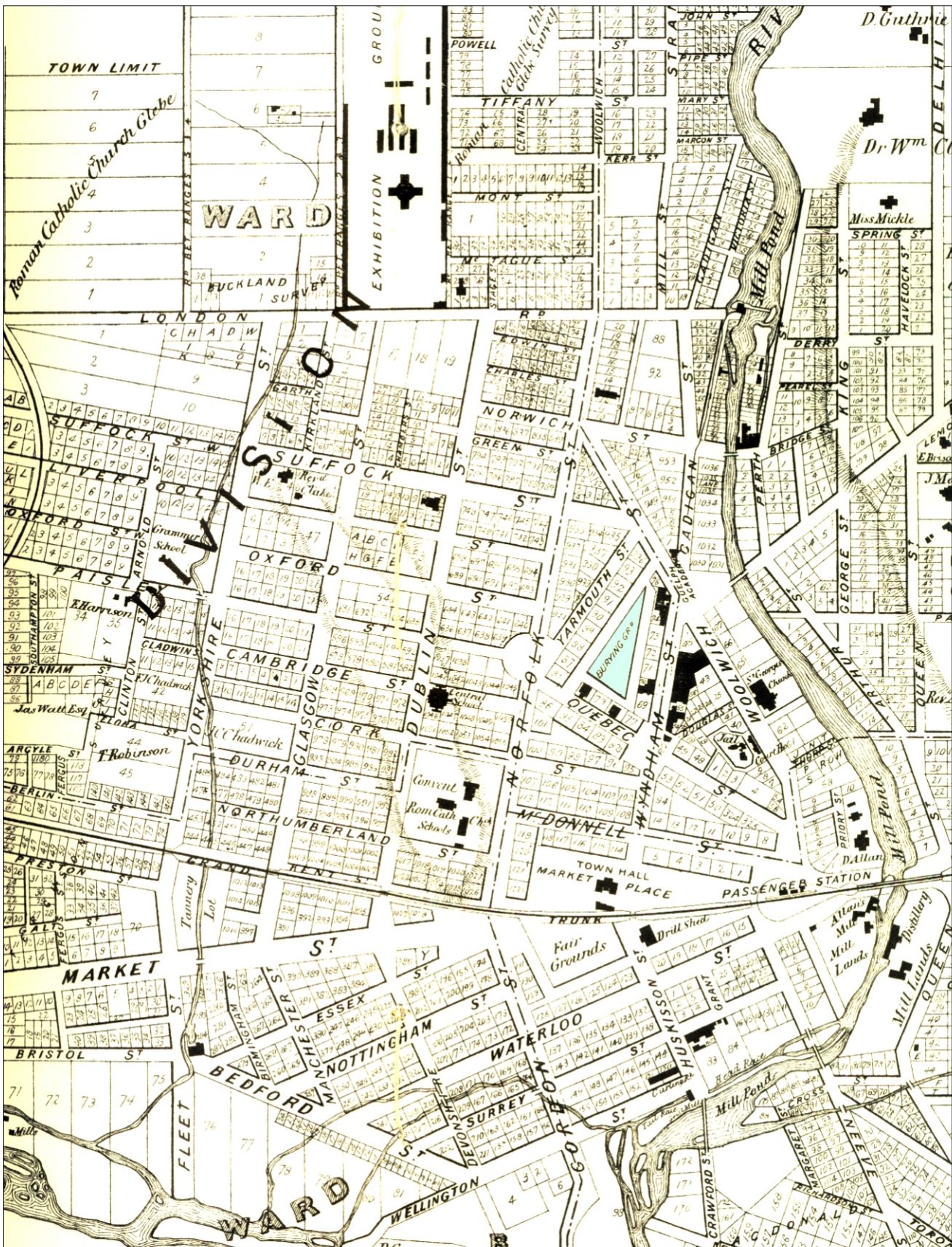


Figure 6 The Public Burying Ground: 1877 Historic Atlas Map



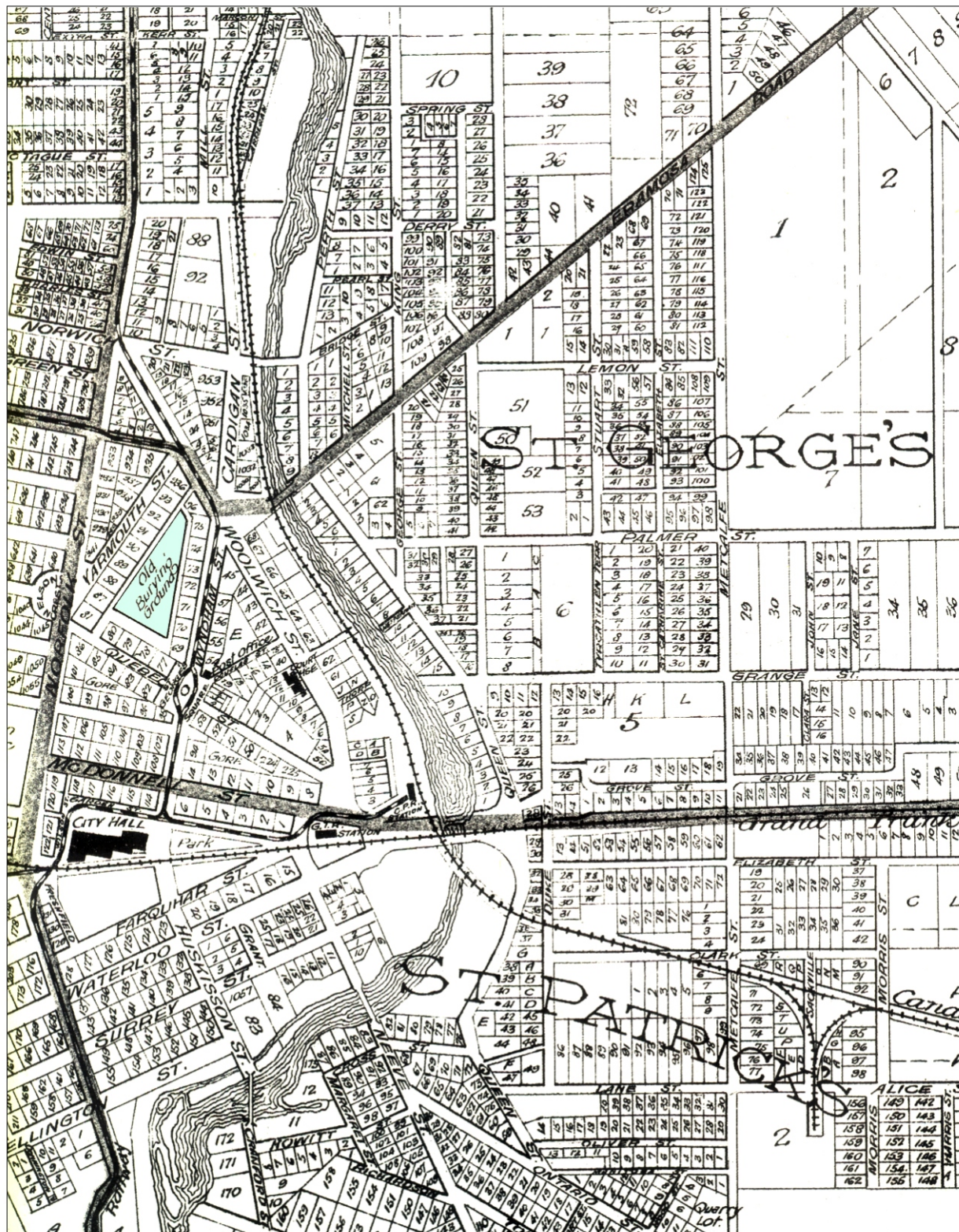


Figure 7 The Public Burying Ground: 1906 Historic Atlas Map