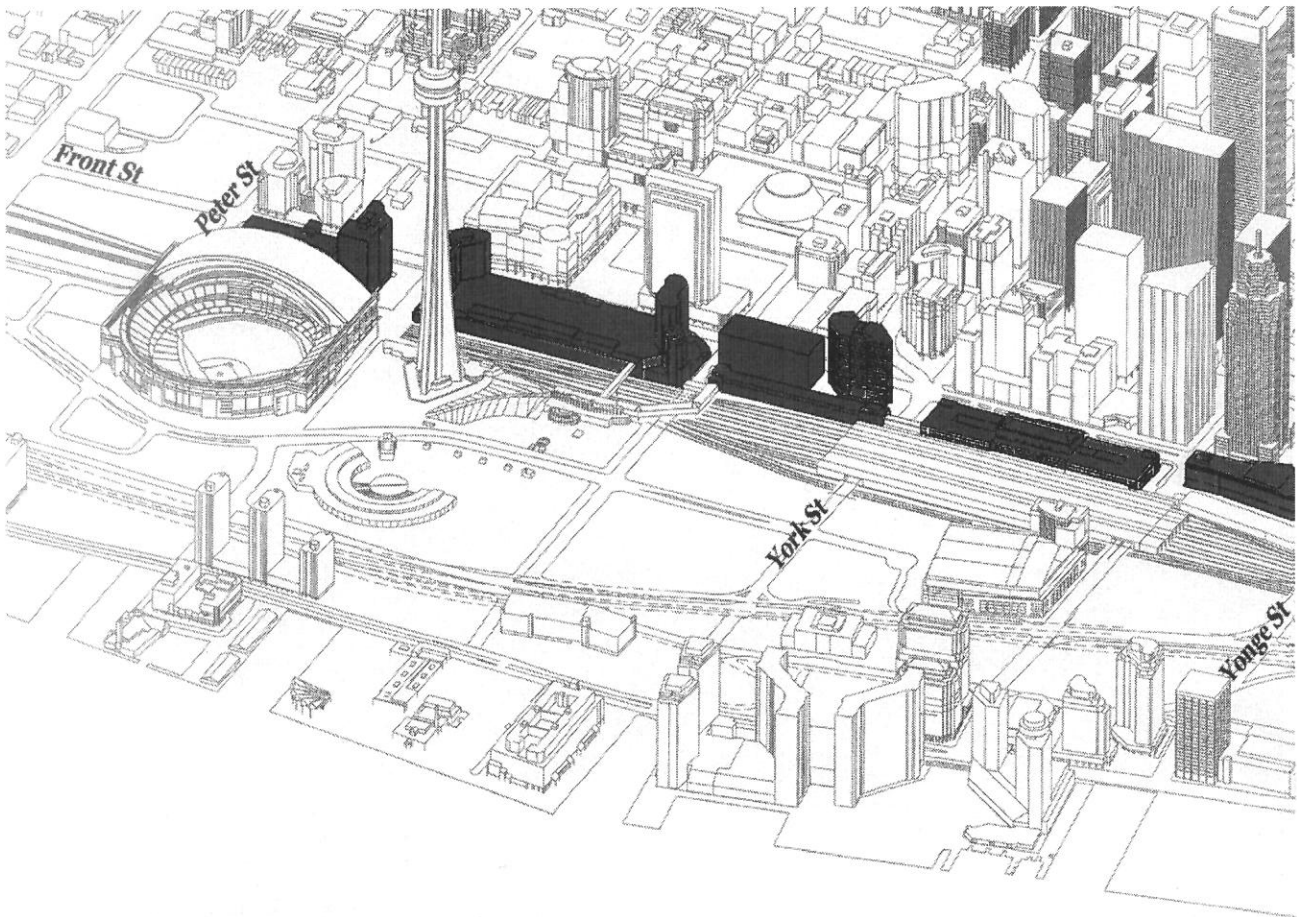


REPORT ON THE WALKS AND GARDENS TRUST



View along the shoreline east from Jarvis Street to the first Parliament Buildings and Town Blockhouse at Berkeley and Front. The strip of land along the shoreline from Peter Street to Berkeley, set aside for public use, became known as the Walks and Gardens. From "Part of York the capital of Upper Canada on the Bay of Toronto in Lake Ontario" by Elizabeth Francis Hale, 1804

Submitted by the Walks and Gardens Working Group
October 31, 2001

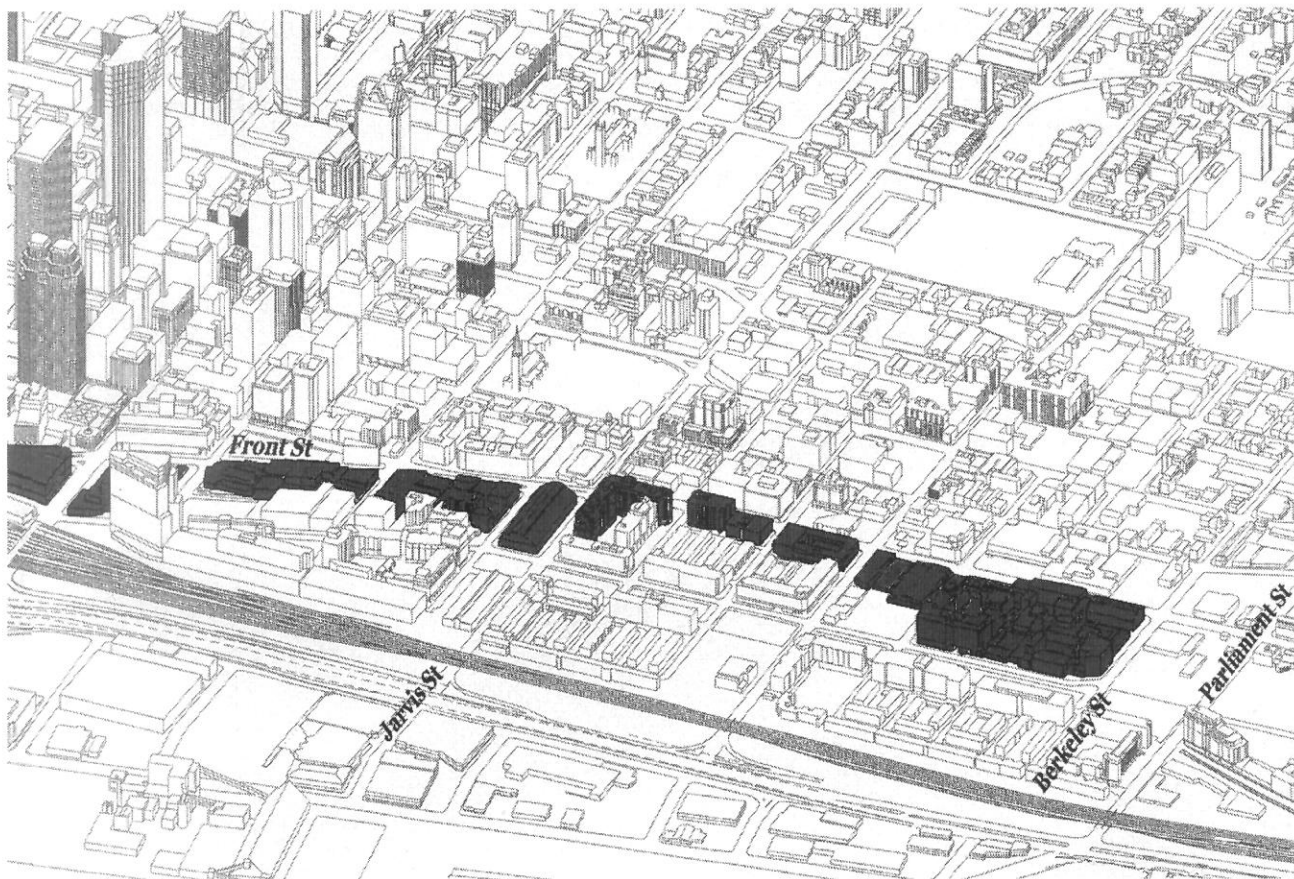


The Walks and Garden Trust lands in a contemporary setting. Shaded buildings are wholly or partly situated on the thirty-acre strip, which averaged approximately 200 feet in width from the south side of Front Street to the top of the bank of the original shoreline.

I. Introduction and Summary

At its meeting of 25 April 2000, the Administration Committee directed City staff to form a working group with local community and heritage representatives to investigate the status of the Walks and Gardens Trust and to report back on its findings. The Walks and Gardens Working Group (WGWG) was chaired by Councillor McConnell, and City staff facilitated the group's task by bringing information and research forward for its consideration. The key research undertaken by City staff included the following:

1. Analysis of lands that were leased and sold within the area of the Walks and Gardens Trust
2. Accounting of revenues and expenditures by the Walks and Gardens Trust since its inception in 1857
3. Analysis of how the City's lease and recent purchase of Union Station affect the financial status of the trust
4. Background information on parks planning in this area.



Clearly, from its inception in 1853 until 1916, significant revenues accrued to the trust, and significant expenditures were made from it. (For example, expenditures from the trust were used to help establish a number of parks, including Allan Gardens and High Park.) Many of these expenditures from the trust were made in the new residential areas of Toronto, as it grew rapidly in the late 19th century and as downtown Toronto evolved from a residential to, primarily, an industrial and commercial centre.

In 1916, a change in City accounting practices merged the accounting for the Walks and Gardens Trust with other budget accounts within the Parks Department. As a result, it is unclear whether the City's expenditures for improvements to parks after that date came from revenues generated by the Walks and Gardens Trust or from other revenue streams, such as property taxes. In short, after 1916 the WGWG cannot accurately trace the activities of the trust nor determine whether it is in surplus or deficit.

The WGWG investigated whether rent from the lease of Union Station had been included in trust revenues and what effect inclusion would have on the financial status of the trust. Again, because the Walks and Gardens account ceases to appear separately after 1916, it cannot be ascertained if these and other compensating revenues actually accrued to the trust. However, by analogy it was concluded that even if the revenues from the Union Station lease were included in the Walks and Gardens Trust accounts, a deficit would likely still result.

Though the results of the historic analysis were inconclusive, by taking a new approach to the revenues generated by Union Station from 1989 forward, we suggest that a strong argument can be made for committing at least \$7 million to a legacy fund to replace the Walks and Gardens Trust. In his report dated 15 March 2000, the City Solicitor concluded that the legislative provisions of the trust still apply to the City, placing an ongoing obligation on City Council to ensure that its requirements are fulfilled.

As a result, the Walks and Gardens Working Group recommends that City Council take the following measures:

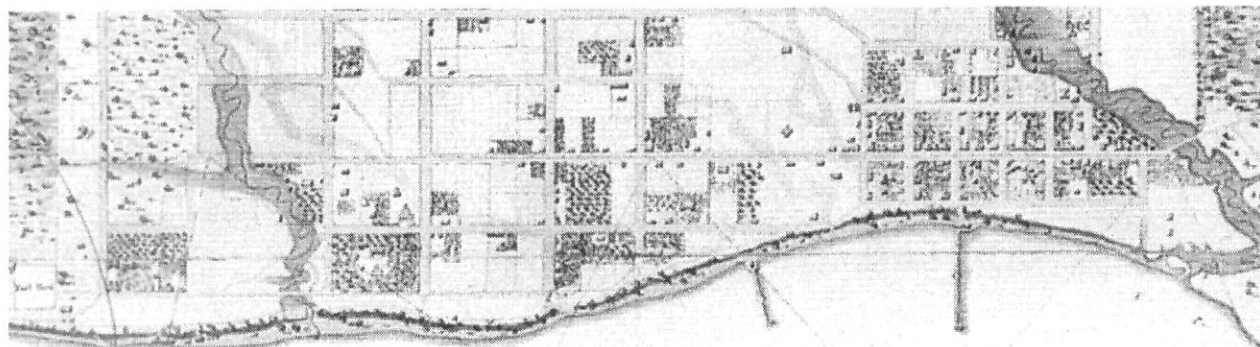
1. acknowledge that the Walks and Gardens Trust is clearly accounted for only until 1916
2. commit itself to establish a Walks and Gardens Legacy Fund to be funded gradually to a total of \$7 million.
3. instruct City Staff, in consultation with the Walks and Gardens Working Group, to prepare a further report on funding and implementation options for a Walks and Gardens Legacy Fund.
4. once the legacy fund is established, request the Province to repeal the legislation that created the Walks and Gardens Trust.

The next activity of the WGWG should be to work with City staff to define funding options, implementation methods and potential civic capital projects within the area of the Walks and Gardens Trust in order to communicate its importance to the heritage of Toronto and to ensure that the trust's founding objectives are met.

II. Background

a. Toronto's Early Development and Creation of the Walks and Gardens

History shows that the idea of a park along Toronto's waterfront is as old as the City itself. In September 1793, shortly after Governor John Graves Simcoe and his Queen's Rangers began clearing the Toronto townsite, the Hon. Peter Russell wrote to his sister that Simcoe *"has fallen so much in love with the land that he intends to reserve from population the whole front from the Town to the Fort – a space of nearly three miles."* Simcoe's vision began to take specific form soon after, when he set aside Toronto's two "bookends," the 1200-acre Garrison Reserve west of the town of York and the somewhat smaller King's or Government Park on the east between Berkeley Street and the Don River. But another twenty-five years would pass before formal steps were taken to link the bookends and put in place the next part of the grand plan – a thirty-acre strip of land south of Front Street to the top of the bank of Lake Ontario between Berkeley and Peter Streets known as the Walks and Gardens.



Garrison Reserve

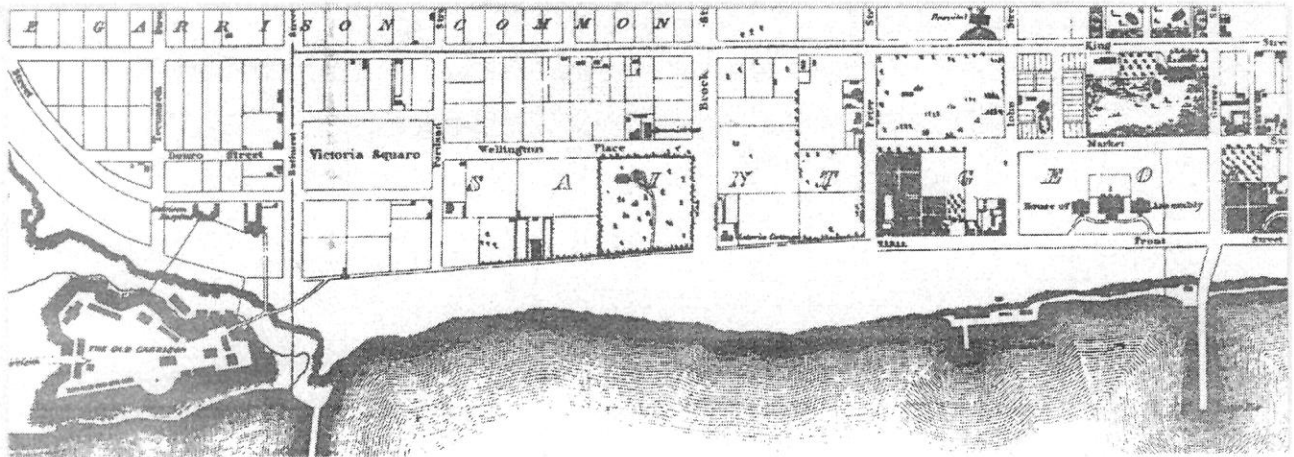
Walks and Gardens
Detail from Plan of York, 1818, by Philipotts.

Kings Park

Meanwhile, as the decades of the nineteenth century passed, Simcoe's vision was fraying at the edges. Shortly before the outbreak of the War of 1812, the westerly 400 acres of the Garrison Reserve were granted by Major General Isaac Brock, acting in his capacity as administrator of Upper Canada, to his secretary and first cousin James Brock, who is recalled today by Brock Avenue and Brockton. Further reductions in the reserve took place in the 1830s, when the eastern part (between Peter, Bathurst and Niagara streets) was subdivided for housing to raise funds for the construction of the New Fort (Stanley Barracks). For a brief period in the mid-19th century, plans existed to develop a large public park north of the New Fort and west of Garrison Creek. In March 1848 the Ordnance department leased 287 acres of land to the City of Toronto for 999 years. Four years later, however, before any planting and landscaping had taken place, Ordnance cancelled the lease.

The King's Park at the other end of town fared no better. Chosen as the site of Upper Canada's first Parliament buildings in 1797, the area soon came to be considered unhealthy because of its proximity to the Don Marshes. Hence, it was used mostly for pasture and brickmaking. Although the Parliament buildings were rebuilt there after being burned by the Americans during the War of 1812, the seat of government was moved to a healthier part of town when the buildings burned down a second time, by accident, in 1824. With unintended irony perhaps, in 1830 the parklands (except for the Parliament-building site) were conveyed to the Toronto General Hospital and sold to raise money for the construction of Toronto's first hospital building.

From the beginning the Walks and Gardens lands were vulnerable to encroachment, because they separated Toronto from the wharves essential to the flow of goods and people to and from the City. The tension between park lands and commerce set up by this juxtaposition was heightened further when, by an Order-in-Council dated 21 February 1840, the City was granted the foreshore and more than sixty acres of water lots between Berkeley and Simcoe streets. It was empowered to lease these lands for periods not to exceed 50 years and to use the rents received for general purposes. Leases were to contain a clause providing for an esplanade (the purpose of which was not defined) not less than one hundred feet wide to be built along the water's edge. Although an esplanade had been talked of since at least 1834, nothing was done until the early 1850s.



Detail from James Cane's 1842 map of Toronto, demonstrating the effectiveness of early legislation pro-

From time to time attempts were made to upgrade parts of the Walks and Gardens area, consistent with the objects of the original grant from the Crown. In 1841, under the leadership of Mayor George Munro, part of the block between Berkeley and Princess streets, known then as the Fair Green, was enclosed by a substantial and elegant fence paid for by a few public-spirited individuals to allow the planting of a public garden there.

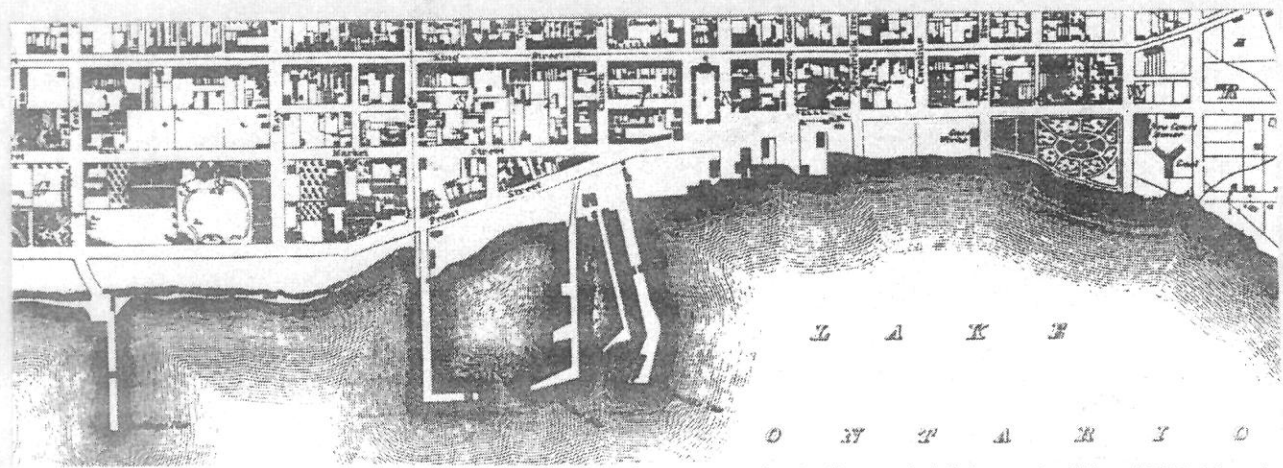
Four years later the City Surveyor, John G. Howard, was directed to survey the waterfront between Berkeley and Bay streets in anticipation of the building of the esplanade. As late as 1852, Howard was asked to prepare a plan laying out the land south of Front Street and west of York Street in "Pleasure Drives, Walks and Shrubbery for the Recreation of the Citizens."

However, entering into Howard's 1852 plan, came the province's first railway, then under construction. This venture and its successors soon sealed the fate of Simcoe's vision by co-opting the esplanade as a railway viaduct. Matters reached a crisis in mid-1853 when the Grand Trunk Railway put intense pressure on Council to build the esplanade so that its lines, under construction both east and west of the City, could be linked up. By mid-1857 trains were passing freely along the front of Toronto, and City Council had been empowered to deal as it saw fit with the plan for walks and gardens, which had become obsolete, and even something of an embarrassment. Clearly, City Council needed to resolve this ongoing land-use conflict.

b. Establishment of the Walks and Gardens Trust

Originally, the thirty-acre strip along Toronto's waterfront was granted to five public trustees by Letters Patent from the Crown dated 14 July 1818. The Crown Patent gave the trustees the following mandate:

to hold the same for the use and benefit of the Inhabitants of the Town of York as and for a Public Walk or Mall in front of the said town, and to permit and allow such appropriations, disposition, alterations and improvements to be made . . . for the Purpose aforesaid.



-tecting the shoreline Walks and Gardens from development prior to the establishment of the 1853 Trust.

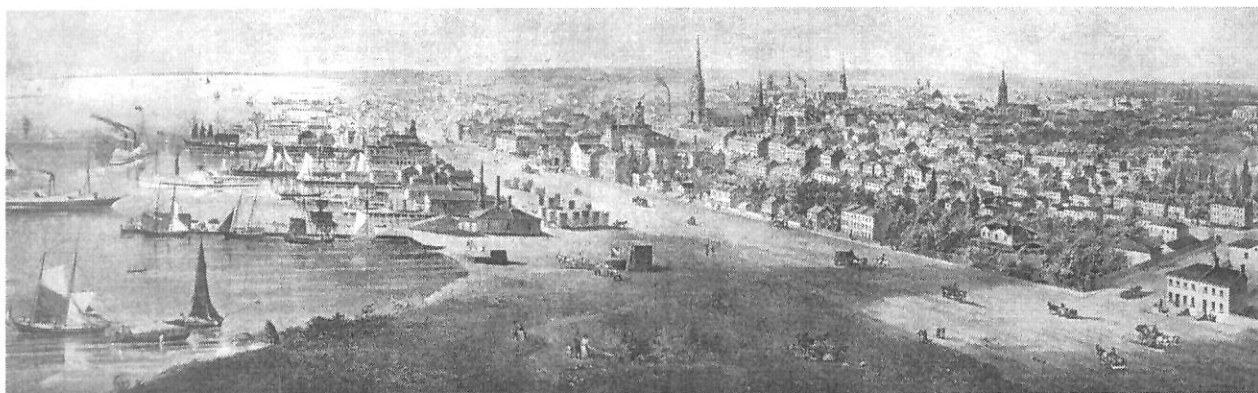
On 14 June 1853, the Parliament of the Province of Canada passed the *Toronto Esplanade Act* (16 Vic. Cap. 219), which allowed the two surviving trustees to convey the Walks and Gardens lands to the mayor, aldermen and commonalty (collectively the Corporation of the City of Toronto) on the same trusts and conditions as in the original Crown Patent. The Act also permitted City Council to make the intended public walk, to continue an esplanade over or through the lands and to carry out any other improvements to the lands for public purposes that it deemed appropriate.

Four years later, the *Toronto Esplanade Amendment Act* (20 Vic. Cap. 80), assented to on 10 June 1857, gave the mayor and Council the following additional powers as trustees:

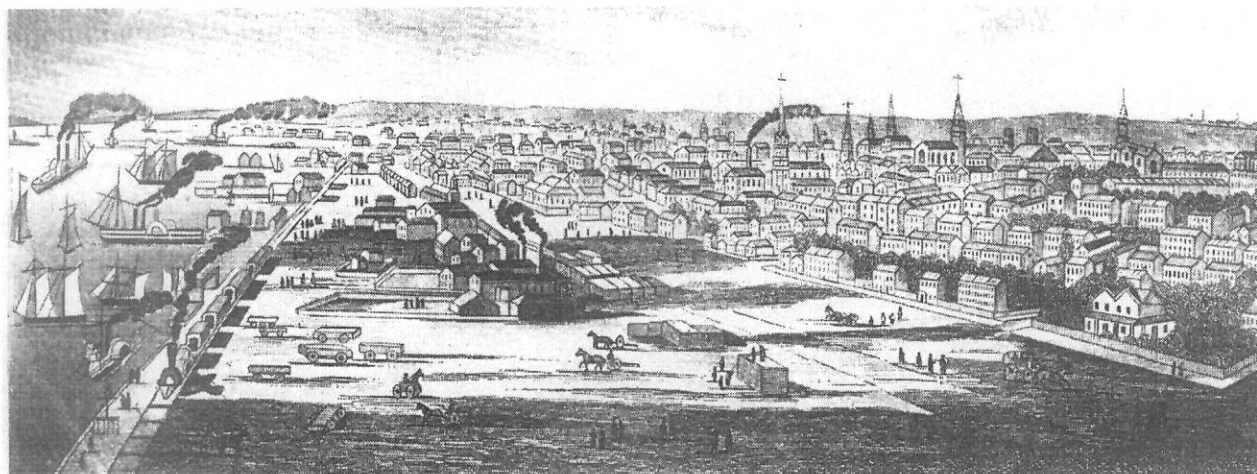
To lease for any term or terms of years, or to agree for the sale of and absolutely to sell and dispose of this space or strip of land in the said patent and section of the Act described, freed and discharged from any and all of the said trusts, conditions and restrictions in the said Patent contained; and all moneys received therefor, whether by way of rent or otherwise, shall be carried to a special account by the Chamberlain [Treasurer] of the City of Toronto, and shall be expended by the said Mayor, Aldermen and Commonalty of the City of Toronto, in the purchase, planting, ornamenting and care of some other piece or parcel of land to be held by the said Mayor, Aldermen and Commonalty of the City of Toronto, upon similar trusts as are in the said patent contained and set forth.

Thus, through a series of legislative acts culminating in June 1857, City Council managed to gain a reasonable resolution to their land-use conflict with the esplanade railway. The City, it seemed, would be compensated over time for the railway's use of prime waterfront land.

Nearly a century-and-a-half later, reporting to the City's Administration Committee on 15 March 2000, the City Solicitor concluded that these legislative provisions, not having been repealed, still apply to the City. They therefore placed an ongoing legal obligation on City Council to ensure that the requirements of the Walks and Gardens Trust are fulfilled.



1854 view from the first Parliament Buildings site at Berkeley Street looking west along Front, showing water lot development prior to the arrival of the railways. The open space in the foreground is the eastern limit of the Walks and Gardens, which are seen adding width to Front Street in this vicinity. Detail from *Toronto, Canada West* by Edwin Whitefield



1863 view from same vantage point, showing the extent of lakefill. The Walks and Gardens, irretrievably separated from the lake, are in the process of being sold off. Detail from *Eighty Year's Progress of British North America, Toronto 1863*

c. Property Sales and Leases within the Walks and Gardens Trust

As part of its work, WGWG tracked the status of the Walks and Gardens Trust, including an accounting of all monies paid to the trust since 1916 and any monies that may be owed to the trust. The WGWG also estimated the current value of the trust. As a first step to understanding what moneys might have been provided for in the Walks and Gardens Trust, the City Solicitor's office investigated title to the Walks and Gardens properties in order to track all sales of these properties out of the City's ownership.

As noted earlier, the 1853 legislation allowed the trustees to transfer the Walks and Gardens properties to the City of Toronto. (This transfer had taken place by 1857.) Additional legislation, enacted in 1857, authorized the City to sell or lease these properties on the condition that all funds generated would be placed in a trust account used for "the

purchase, planting, ornamenting and care” of replacement park lands. The leases could not be tracked since most were not registered on title.

It becomes apparent from this search that by 1863 the vast majority of the Walks and Gardens properties (10 out of approximately 14 blocks) had been sold to private interests. The sale prices evidenced by the deeds on title were generally not large (See Appendix 1).

A review of Council minutes during these years revealed that in 1861 City Council asked the Standing Committee on Public Walks and Gardens to devise a plan for disposing of the Walks and Gardens property. This plan allowed those who owned lands adjacent to the Walks and Gardens strip to purchase the piece of land abutting on their property. Unfortunately, at the same time, these owners were also allowed to purchase other City lands that lay to the south. As a result, in many cases it is impossible to ascertain from the records of these purchases exactly what sum was properly attributable to the trust.

This observation is consistent with the 1916 Annual Report on the City Real Estate Assets, which stated that

“a large part of this property has already passed out of City hands, the principal piece still owned by the City, being that upon which the new Union Station is being erected.”

d. Walks and Gardens Trust Revenues until 1916

Once this history had been clarified, finance staff researched accounting and budget documents within the relevant time periods. From an accounting perspective, the Walks and Gardens Fund was never set up as a true trust account, although it was often referred to as a special fund. A statement for this fund was provided in the Annual Report of the Commissioner of Finance, which gave total amounts of receipts and disbursements for the year. The earliest record was in 1859, with the practice of separate accounting continuing until 1892. In 1893 the receipts were merged with the City’s property rentals, although the fund was still identified as a separate line item. The disbursements continued to be recorded under a Public Walks and Gardens caption, with a detailed description of expenses incurred for various forms of park maintenance, permanent improvements and acquisitions of park lands.

From these records, it was possible to piece together a rough balance sheet for the Walks and Gardens account. Between 1859 and 1915, land sales, leases and “other income” generated revenues that varied drastically (from a low of \$2,548.93 in 1868 to a high of \$467,137.72 in 1892) from year to year. These records do show that the City was using the funds appropriately in acquiring other properties for the purpose outlined in the trust (i.e., as public walks and gardens). Some of the public parks purchased with these funds include portions of High Park and Allan Gardens. Unfortunately, it also becomes clear that the Public Walks and Gardens account was operating at a deficit for most years from 1893

forward, and that the shortfalls were not small. A running tally would suggest that, as of 1916, the account was overdrawn by \$4 million (See Appendix 2).

e. City Accounting Changes in 1916

Civic records indicate that, financially, 1916 was a difficult year for the City of Toronto. Revenue from taxes was not being received for current or prior years. Operating costs were increasing and the City was forced to borrow unusually large sums of money. Beginning in 1917, the City changed its accounting methods and ceased to track separate revenues and expenses for Walks and Gardens. Notwithstanding, in law the trust remained in force, municipal accounts did not reflect this, as they ought to have done. Instead, the summary classification report for that year states under the heading of "Rents General" that revenue collected from "Front Street Properties Originally for Public Walks and Gardens" is to be merged with revenue from other accounts. This was the time when the Commissioner of Finance made the decision to record the receipt of revenues from these properties as the City's general revenue.

A search of Council bylaws and minutes has turned up no authorization for these accounting changes. No information is available in the correspondence and files surviving in the City's Archives. We can only guess why the change occurred.

Some speculate that the merging of the Walks and Gardens account may have come about because the Front Street properties had long been producing insufficient revenue to cover the rising costs of maintaining and augmenting green spaces, in accordance with its original purpose.

Another theory is that the accounting change was one of the widespread and necessary improvements to the management of the City's affairs introduced by Thomas Bradshaw, following his appointment in March 1916, as Commissioner of Finance and Treasurer. Such changes were part of the modernization of accounting practices within the City's bureaucracy. A former vice-president of the Imperial Life Assurance Co. and partner in A.E. Ames and Company, Bradshaw took control at a time when the extraordinary pressures of the First World War were threatening to bankrupt the City. When he retired in 1920, having brought about solvency and better order, he was acknowledged in a special resolution by a grateful Council.

Whatever the reason for it, this 1916 accounting change has made it impossible to track the revenues and expenditures of the Walks and Gardens Trust clearly, owing to their having been merged with other revenues and expenditures. All we know is that in 1916 – the last time the Walks and Gardens Trust was clearly accounted for – it was in deficit by \$4 million, as best we can determine.

f. Rents from Union Station

Union Station is built on lands owned by the City of Toronto, a portion of which are located within the area of the Walks and Gardens Trust. In 1916, Union Station was one of the few

Walks and Gardens properties remaining in the City's inventory and leased to private hands.

Until the present Union Station opened in 1927, Toronto's railway station was situated on the west side of York Street. By 1900 the railways had outgrown this station and sought a central location to build a new one. When the great fire of 1904 ravaged the lands immediately to the east of the old station (between York and Bay) the railways set out to construct a new station on the City-owned lands (a portion of which were subject to the trust). Although empowered to expropriate land from the City, the railways lacked the power to expropriate the public streets within the site, and so it became necessary for them to negotiate with the City for the property. In 1915 a lease was executed between the City and the Toronto Terminals Railway Company Limited (TTR), which provided two blocks of land to the railways on which to build the new station. Although Union Station was substantially constructed by 1920, it did not open until the rail viaduct along the south edge of the City was completed in 1926.

Originally, about one-third of the Union Station property was subject to the Walks and Gardens Trust. In 1939 the Government of Canada expropriated a portion of the block for a post office, thereby generating a one-time settlement of \$300,000 (approximately half of which is attributable to Walks and Gardens). The reduced area constitutes approximately 28% of the Union Station property.

WGWG made the assumption that the rent received by the City from TTR could be divided in this same proportion between the Walks and Gardens account and regular City coffers. Staff then determined what additional revenues would have been added to the Walks and Gardens account, based on this assumption, once Union Station had been leased to the railways.

The City's lease to TTR was based on 21-year terms commencing in 1905. The annual rent was \$14,000 for the first term; \$20,000 for the second; \$55,000 for the third; and \$308,400 for 1968-89. The 1989 term was never arbitrated, but became subsumed as a set-off against the purchase price when the City purchased Union Station from TTR in August 2000.

Using budget documents from the city's archives, City staff then tried to compare the revenues from Union Station against the expenses – both capital and operating – generated by the replacement parks. This exercise suggests that, even though no separate account was maintained after 1916, it is likely that the annual expenditures for these parks continued to exceed the revenues. The financial snapshots below are typical.

1. In 1916 park expenses totalled \$382,000; revenues for Walks and Gardens properties, including Union Station, totalled \$ 24,471.
2. In 1930 a separate line item in the parks budget tracked expenses for a named group of parks (Allan Gardens, High Park, Island Park, Reservoir Park and Riverdale Park); the total operating expense in that year for these parks alone was \$217,713. The rent

from Union Station attributable to Walks and Gardens for 1930 would have been approximately \$6,800.

3. By 1968 revenue and expenses for these parks were no longer tracked separately. Using the line item under Parks Expense for General Caretaking and Horticultural, which may be an acceptable indicator, we find a total slightly over \$2 million. The rent from Union Station for that year totals \$308,400, and the portion attributable to the Walks and Gardens property, about \$84,000.
4. The total rent from Union Station between 1915 and 1989 amounted to approximately \$8.6 million and, of this, the portion due to the Walks and Gardens Fund would be approximately \$2.5 million. There is no doubt that, during this same period, the City has expended more than this sum in acquiring and maintaining parks, making up the difference from other revenue streams, such as property taxes. Assuming the \$217,713 spent on maintenance in 1930 was typical, expenditures on maintenance over the course of 85 years would total more than \$18.5 million.

Therefore, as of 1989, even if the revenues from Union Station were included in the Walks and Gardens account, there would be no surplus of funds.

When the City purchased Union Station in August 2000, the arrears in rent for the term of 1989 to 2000 were subsumed in the sale agreement between TTR and the City. The Walks and Gardens portion is estimated by WGWG at \$7 million. New revenues to the trust should include a 28 % share in future rents paid to the City if it leases the whole or part of the public estate in Union Station. While we cannot estimate the present value of these rents, they may be significant.

The WGWG suggests that while history has not provided a resolution to the Walks and Gardens account, the time is right for the City to take a new approach to funding for the Walks and Gardens. We believe a case can be made for setting aside at least \$7 million as an equitable settlement, in order to then request the Province of Ontario to rescind the existing Walks and Gardens legislation.

III. A Walks and Gardens Legacy

a. Health of the Downtown: Quality of Life

Toronto is known internationally for its pleasant, well-functioning downtown, which effectively combines office, retail, residential, live-work, cultural, institutional and entertainment venues. It is easy to get around by transit. The downtown streets are well-lit, active and safe. A wide variety of activities is available and includes concerts, theatre, restaurants, sports, museums and sightseeing. Downtown Toronto also has its distinct neighbourhoods, each with its own unique character, local services and amenities. Traditionally, the City has taken great care to ensure the downtown remains vibrant and liveable. Recent surveys indicate that the ambience of the downtown, especially the

heritage areas, is a main attraction. People are moving back into the central core, reversing a trend that started more than a century ago, bringing stability and vitality.

b. The Contribution of the Downtown to the City's Revenue Base

The downtown's tax base is large, generating about \$1.2 billion of annual tax revenue, about 27% of the City's total tax revenue. Downtown tax revenue is pooled and supports services in other parts of the City. In addition, under the CVA property-tax system, some of this tax money is spent on education throughout Ontario. The fiscal health of the downtown affects not just the entire City, but also other municipalities in the province of Ontario. Therefore, from a purely fiscal perspective, it is imperative to ensure that the downtown remains healthy in order to support an array of City services.

c. New Downtown Residential Development

Since the mid-1970s, as a planning objective the City of Toronto has deliberately sought to increase the resident population downtown in order to ensure that the core remains active and vibrant and to reduce citizens' reliance on the automobile, for the sake of air quality. Policies aimed at increasing the downtown residential population have been successful. Most recently, the 1996 creation of reinvestment areas in King-Spadina and King-Parliament, just north of the Walks and Gardens Trust lands, has generated thousands of new residential condominium units. The population downtown has increased by 34% to 162,000 since the late 1970s. Furthermore, this trend will continue. The recent report on the City's new Official Plan, entitled *Toronto at the Crossroads: Shaping our Future*, estimates that the City's residential and work population will grow by about 540,000 in each of the next 30 years. This growth will occur in such downtown areas as the "Kings," the West Don Lands and the waterfront.

d. The Irony of the Walks and Gardens Trust

The Walks and Gardens Trust funds were primarily used to acquire new land for public open spaces such as High Park and Riverdale Park. These green sanctuaries were created on the periphery of 19th-century Toronto and supported rapid 19th-century suburban residential population growth. At the same time, the downtown population was shrinking, with heavy industry and commercial activity expanding in its place. Now that traditional industry has declined or disappeared from downtown Toronto, the resulting underused or vacant lands and buildings are being revitalized through new residential and commercial activities. Ironically, while some public open spaces have been created or expanded in the core, such as Berczy Park, St. James' Park and Roundhouse Park, rapid population growth since the 1970s has far outpaced investment in new parks and public open spaces. Although the need to provide new open space in the downtown has been identified in the Official Plan, factors such as the cost and availability of downtown land, the lack, until 1994, of a park levy for downtown development, and spending restraint by government since the early 1990s have all contributed to under-investment in green spaces.

e. Public Investment as a Catalyst

Public investment downtown can act as a catalyst for ongoing private reinvestment. The creation and implementation of Community Improvement Plans, as permitted by the *Planning Act*, is a way for the public sector to show leadership by challenging the private sector to reinvestment in response to civic improvements. In 1997 City Council adopted Community Improvement Plans for both King-Spadina and King-Parliament, in order to complement and reinforce private reinvestment. Despite new private reinvestment in the “Kings” since 1997, City Council has yet to commit any funds to community-improvement projects for these neighbourhoods.

f. Quality of Life: Using the Walks and Gardens Trust for Creating Civic Infrastructure

In re-establishing and updating the Walks and Gardens Trust, the City could help communicate its heritage value to modern Toronto by creating a linked series of heritage-interpretation features. Its recognition could also be a catalyst for creating new public spaces and streetscape improvements within the area of the Walks and Gardens Trust. (Part of the Walks and Gardens Trust is within the area of the King-Parliament Community Improvement Plan, which is entitled to a civic counterpart to the private monies invested in the area.) Substantive public reinvestment would make downtown Toronto more pleasant and ensure its ongoing health and vibrancy. It would also encourage further private reinvestment downtown. This, in turn, would help generate new tax assessment, without significant public expenditures in expensive, new infrastructure, such as sewers, water systems or roads.

g. Direct Economic Benefits: Cultural Tourism and Employment Growth

Downtown Toronto is a destination for tourists from all over the world. A revitalized and enduring Walks and Gardens Trust would provide yet another attraction for visitors and would also reinforce Toronto’s international reputation as a City with an interesting history, as well as a liveable and vibrant downtown. Cultural tourism has the potential to create many new jobs and to support existing activities in tourism-based employment sectors.

h. Revitalization of the Walks and Gardens Trust

The WGWG recommends that City Council re-establish the Walks and Gardens Trust and utilize the proceeds for the original objectives of the trust within the original geographic area benefited by the trust. Instead of using trust monies for parks and park operations outside the original downtown core, funding would be directed to the area roughly bounded by Peter and Berkeley Streets, Esplanade and Adelaide Streets, with its historic connection to the early waterfront.

If City Council agrees that the Walks and Gardens Trust should be given new life and its objectives reinforced, two things need to be accomplished:

1. A method of generating capital funding for realizing the objectives of the Walks and Gardens Trust needs to be in place. The funding could be generated over an extended period of time as a revenue stream, and capital expenditures could be incremental.
2. A co-ordinated plan needs to be prepared for incremental capital improvements as a Walks and Gardens legacy.

An effective way to create a plan for capital improvements would be through amendments to the King-Parliament Community Improvement Plan and the establishment of one or more new Community Improvement Plans to accommodate the Walks and Gardens Trust legacy. City staff should work with the WGWG on ideas for civic improvements that could be incorporated into these plans, which, together, would form a co-ordinated framework for a revitalized Walks and Gardens.

The Walks and Gardens Working Group is prepared to work with both City staff and City Council to define the funding options, implementation methods and potential civic capital projects needed to realize the founding objectives of the Walks and Gardens Trust.

i. Winding Down the Walks and Gardens Trust

In his report to the Administration Committee dated 15 March 2000, the City Solicitor said that he found no evidence of any repeal of the 1853 and 1857 statutes that established the Walks and Gardens Trust and conveyed the lands to the stewardship of City Council. Therefore, the trust still remains in force.

The WGWG recommends that, in order to relieve City Council's obligations as trustees and to eliminate any debate as to their past or future legal liability, City Council ask the Province of Ontario to pass legislation to dissolve the Walks and Gardens Trust. However, the WGWG also believes that City Council has an ethical obligation not to make this request until it has established a mechanism for adequately funding a Walks and Gardens Trust legacy and made a financial commitment for its implementation.

IV. Conclusions

The accounting exercise described earlier cannot be considered a forensic audit, as the data and accounting records are incomplete. If Union Station revenues are taken into account, apart from expenditures, a substantial amount of money is owed to the fund. However, as these rents were accruing, the City spent millions of dollars on park acquisition and maintenance outside the Walks and Gardens Trust area, drawing on such revenue sources as property taxes and fees.

The City would be well advised to expend capital funds on reviving the Walks and Gardens Trust, at least in spirit, through the establishment of a legacy fund. Not only would such an expenditure help maintain the health of the downtown core, but it could be

used to promote cultural tourism and to improve the under-supply of parks in downtown Toronto.

The WGWG suggests capital funding for a Walks and Gardens Legacy Fund of \$7 million. This amount is based on the assumption that rents from Union Station should accrue to the Walks and Gardens account and it is now appropriate to shift the focus of the trust back to the geographic area of the City where it originated. City Council may wish for further reporting by staff on how to fund new capital projects arising from City Council's consideration of its obligations.

Unfortunately, a thorough search of historical records appears to offer no clear answers on past intent or action. Our predecessors did not leave enough evidence for City staff to say definitively that the obligations of the Walks and Gardens Trust have been either breached or fully met. Therefore, once a new legacy fund has been established and funded, City Council should seriously consider making a request to the Province of Ontario to rescind the existing Walks and Gardens Trust.

V. Recommendations

5. **THAT** City Council acknowledge that the Walks and Gardens Trust is clearly accounted for only until 1916
6. **THAT** City Council commit itself to establish a Walks and Gardens Legacy Fund to be funded gradually to a total of \$7 million.
7. **THAT** City Staff, in consultation with the Walks and Gardens Working Group, prepare a further report on funding and implementation options for a Walks and Gardens Legacy Fund.
8. **THAT** City Council ask the Province of Ontario to rescind the trust created by the original Crown patent of the Walks and Garden's properties and repeal Section 8 of the *Toronto Esplanade Act*, 1853 and Section 6 of the *Toronto Esplanade Amendment Act*, 1857 in order to unwind the Walks and Gardens Trust and relieve the mayor and City councillors of any liability arising out of their duties as trustees, once a Walks and Gardens Legacy Fund and a method of funding it have been established and the legacy fund has received the first phase of its funding.

Walks and Gardens Working Group

Chair

Councillor Pam McConnell

Community Members

Stephen Otto, *consulting historian*
Frank Touby, *St. Lawrence Neighbourhood*
Edward Nixon, *St. Lawrence Neighbourhood*
Cindy Wilkey, *Corktown Neighbourhood*
Maggie Keith, *Harbourfront Neighbourhood*
Bob Stacey, *Heritage Toronto*
Rollo Myers, *Citizens for the Old Town*

Staff Support

Al Schulz , *Finance – Accounting Services*
Patty Simpson, *Corporate Services -- Legal*
Greg Lintern, Angus Cranston and Lance Alexander, *Urban Development Services -- Community Planning*
Eric Pedersen and Alka Lukatela, *Urban Development Services -- Urban Design*
Denise Gendron and Sherry Pedersen, *Economic Development, Culture & Tourism -- Heritage Preservation Services*
Frank Kershaw and Barry Hughes, *Economic Development, Culture & Tourism – Policy Development – Parks & Recreation Planning*

APPENDIX 1 TO REPORT OF THE WALKS AND GARDENS WORKING GROUP

SUMMARY OF SALES OF LANDS

BLOCK	DATE	LEGAL DESCRIPTION	AMOUNT	COMMENTS
1 and 2	1840			
1 and 2	1868		\$20,000	from Esplanade to 150' south of Front (i.e. south of W&G)
1 and 2	1893			no W&G
3	1908	Pt Lots 49, 50 & 51 (below water	\$1,030 \$1,030	does not include W&G
5	1861	across from Lot No. 2	5 shillings	
5	1862	E ½ of Lot 4	£1,000	more than W&G
6	1862	across from water Lot #1	\$400	more than W&G
6	1929(?)	Part of Lot 36	\$52,900	may not include any W&G?
7	1862	lands next to water Lot 'A'	\$600	W&G only
7	#6990			
7	1863	same lands?	\$600	W&G only
7	#7267			
7	1862	water lots below top of bank	5 shillings	no W&G
8	1862/3	opposite water lots D, E, F	\$1,115	W&G and waterlot
8	1862	opposite water lot H	\$300	W&G only
8	1864	water lots I, #26 to top of bank, south of windmill line	5 shillings	no W&G
8	1865	water lot H		no W&G
8	1862	water lots D, E, F ??	\$1	
8	1863	W&G opp G water lot 24	\$450	W&G only
8	1898	water lot G	\$1	water lot only
9	1876	Pt of lots 22/23		no W&G
10	1862	E ½ of lot across from town lot	\$300	W&G only
10	1872	#9 to top of bank		
10	1862	W&G opposite water lot 21	\$400	W&G only
10	1862	W&G opposite water lot 20	\$250	W&G only

10	1863	water lot opposite lot 21	n/a	waterlot
10	1866	water lot opposite lot 9	n/a	waterlot
10	1868	water lot north of lot #19	n/a	waterlot
10	1863	water lot north of lot #20	n/a	waterlot
11	1862	W&G opposite E ½ of lot 7	\$300	W&G only
11	1863	W&G opposite water lot 16	\$200	W&G only
11	1862	W&G in front of E ½ of town lot	\$200	W&G
11	1863	water lot across from lot #15	n/a	waterlot
11	1864	water lot north of E ½ waterlot #1	n/a	waterlot
11	1871	meeting re water lot re O'Neill W ½ of town lot 7	n/a	waterlot
11	1863	water lot in front of W ½ of lot 17	n/a	waterlot
12	1862	W&G opposite water lots 12 & 13	\$500	W&G
12	1870	water lot in front of W ½ of town lot	n/a	waterlot
12	1863	water lots opposite water lots 12 & 13	n/a	waterlot
12	1892	lands below top of bank in front of W ½ town lot 6 and part of waterlots 12 & 13 including W&G	\$600,000	W&G AND waterlot
12	1927	W&G [lot at corner of Caroline/ Front]	\$10,500	W&G
13	1862	W ½ of waterlot #4 across from lot 4 and W&G strip	\$1,000	W&G and waterlot
14	1868	Waterlot	n/a	waterlot
14	1870	waterlot E ½ of lot 2	n/a	waterlot
14	1862	W&G from Princess to Berkley (sketch attached)	\$11,620 (?)	W&G