

2233497 Ontario Limited  
25 Sable Street  
TORONTO, ON  
M6M 3K8

Local Mailing Address  
15-4025 Dorchester Road  
Box 141  
Niagara, ON  
L2E6N1

Mr. Drew Chapman  
Chair  
The Municipal Heritage Committee  
Town of Niagara-on-the-Lake  
1593 Four Mile Creek Road  
P.O. Box 100  
Virgil, ON  
L0S 1T0

2 March 2021

Dear Mr. Chapman:

RE: 46 Paxton Lane, St. Davids, Ontario

### **Issue**

Condition 31 of the Ontario Municipal Board's decision on the Paxton Lane subdivision stipulates that "...the exterior of the Paxton House (lot 11) be restored." All the relevant archaeological reports have been entered into the Archaeological Register and copies submitted to the Town.

In our last conversation, the Town's Heritage Planner suggested that we open a dialogue with our consultants to determine how to stabilize the building so this condition could be satisfied. Those began several months ago and are ongoing.

However, the Town has issued a third Property Standards Order requiring us to re-shingle and put gutters on the existing roof which is estimated at 1940 vintage. This contradicts all the previous discussions we have had with the Town's Heritage staff and Municipal Heritage Committee (MHC) members.

### **Background**

Following the Heritage Planner's advice, we engaged our consultants to determine how to stabilize the building prior to conservation. We ensured the original design of the house was used

as inspiration for the approved subdivision “look”, and amassed an impeccable collection of historical, archaeological, and architectural data to build a compelling narrative for the place. We have spent a great deal of time creating a heritage interpretation strategy and over \$2M interpreting and cataloging pre-contact Indigenous culture and heritage.

We have been in discussions with the History Department at Brock University to determine if their virtual reconstruction technologies could be utilized to enhance the extensive documentation we have had produced. We have also open a dialogue with Niagara College to explore their technological expertise in creating a virtual history of the structure.

We have also been exploring with several provincial and local historical organizations the likelihood that enslaved peoples lived above the ‘summer kitchen’ that was recently exposed through archaeological investigations. In total, we have compiled over 5,000+ pages of information including a full 3-D interior space capture with schematic floor plans and a raft of documentation we intend to put on the public record.

For the phased conservation effort, we continued to work with experienced heritage conservation consultant and former Niagara-on-the-Lake resident Dr. Henry Cary. We initiating planning for environmental remediation and could be ready to proceed in the spring.

Only after the Heritage Planner gave approval did we clean out nearly 30 yards of debris from the interior. The Phase 1 environmental remediation report has been embedded in an annotated MatterPort video we commissioned to document the interior with precise details of all three floors and the condition of the structure. This also serves as a basis for a possible virtual reconstruction of the original structure.

An annotated MatterPort video of the interior is linked to this document [here](#)

A link to all the files and external photos of the site is here [Supporting Documents](#)

We also required a final engineering stability report before any structural works were begun. In November 2020, we provided staff with that engineer’s report. It concludes that:

“The existing structure is not acceptable and not safe.” “...the entire structure is outside of any reasonable and feasible rehabilitation/ reinforcement procedures (safety issues and prohibitive cost)...”.

## **Current Situation**

The latest Property Standards Order directing us to repair the existing roof is exactly opposite to what was recommended in the Heritage Conservation Plan (HCP) and Phased Heritage Work Permit endorsed by Town staff and the MHC.

Under the HCP and Work Permit recommendations, the first phase was to remove the roof and possibly return it to its original configuration. This would likely relieve the loading pressure on the walls evidenced by the bowing and cracking on the exterior.

However, because the engineering report found the walls to be unstable, there is potential that removing the roof would also cause the walls to collapse. This could be remedied by shoring, but since the building is unsafe to enter we cannot send crews inside to erect supports.

As Mark Fram has noted, “Much deterioration now suffered by historic buildings has been caused by quite recent repairs.”<sup>i</sup> For decades in the 20<sup>th</sup> century, Paxton House was jerry-rigged with repairs and renovations that certainly do not meet any municipal building codes, even at the time they were completed. For example, the cinder block chimney we just removed—as directed by a Town Property Standards Order—came down in an uncontrolled collapse seconds after the top course was removed. It was not attached to the house. The chimney also failed to meet code standards for venting into the basement.

These issues are embedded in the video file we are submitting for your review.

Our next task is to deal with the home-made septic system on the creek bank.

The Ministry of Labour Construction Health and Safety Inspector visited late last year and we are arranging another inspection after he reviews the engineer’s report and video evidence. Due to our strict provincial labour laws and as the engineer’s report states that the structure is unsound, we cannot send a crew in to gut 1950’s renovated main floor, let alone continue the environmental remediation that has to occur prior to any rehabilitation; we also cannot pursue the work required by the Property Standards Order.

## **Challenges**

According to a member of MHC, the cost to bring Paxton House up to code as a residence is \$1.6M. This is close to the estimate of \$1.4 we received from a heritage restoration firm. To recoup the sunk costs to turn it into a habitable home would therefore require a selling price of \$2M for an 800-square foot cottage on a relatively small urban lot, and one constrained for future expansion by its designation under Part IV of the *Ontario Heritage Act*.

When this investment is added to what we have already spent on archaeology (nearing \$2M) with First Nations monitoring (nearing \$300k), the heritage, environmental and engineering studies, as well as the usual costs associated with subdivision approval, the project has high potential to fail or be postponed again, leaving Paxton House to further decline and inevitably collapse or be lost to vandalism.

In our efforts to try and find capital support for restoration we have had discussions with three not-for-profit organizations to attempt a collaborative rehabilitation. None have showed any significant interest. We have had discussions with Heritage Canada. We met with the Ontario Heritage Trust and they too showed no interest. We have met with the neighbours, holding several group discussions and on-site meetings to showcase the archaeological finds and have generally responded to any and all inquiries. We are still hopeful that we can engage with

---

<sup>i</sup> Fram, *Well Preserved*, Ontario Heritage Trust

Willowbank School of Restorative Arts to plan to restore the hearth in the basement and creatively reuse any materials from the structure.

These missing resources as well as a lack of willingness by multiple levels of stakeholders impaired the conventional redevelopment of the site. <sup>ii</sup>

Additionally, we have asked for Council, staff, and MHC input to determine a realistic end use for the structure. Before the final engineers' report was delivered, we invited Council Members and the MHC to tour the structure's interior. Only one person responded. We are then sent Property Standards Orders to do things that do not support conservation of the building's heritage attributes.

One step forward, three steps back.

## **A Way Forward**

The HCP for Paxton House was built on the notion that the optimal adaptive re-use for a building is one close to what it was designed for; in this case, a single-family residence. However, the HCP also explicitly stated it was a dynamic document based solely on understanding of the structure at that time. Our understanding of Paxton House has changed since the HCP was submitted in May 2020, requiring we reassess the best course of action.

As outlined in the 2020 HCP and cost estimates above, returning Paxton House to a house is infeasible. It would also limit opportunities to tell the story of the place supplemented by historical research and archaeology.

Other suggestions such that it be converted to a museum or tourism destination are equally infeasible. As Fram also writes:

It should be obvious (even from the basic principles of conservation) that for any property of heritage importance to survive, it must have an economically viable use and user. In turn, such use depends on the more general economic conditions of a community and its region. A decision to invest in a property of historic or architectural interest can be justified on historic or aesthetic grounds only so far, and then economic utility must carry the day. This is true for both public and private ownership even the historic-house museum must help support itself financially<sup>iii</sup>.

Not only are there are too few parking options to make a museum accessible in the new development, substantial investment would be needed to attain a level of climate control required to safely store historic objects. House museums also take a huge amount of effort to be sustainable as they require a dedicated staff who must be committed to almost continuous fundraising just for the programming, let alone maintenance costs for the building and property. In Niagara, museums are also in stiff competition with a whole host of other attractions including established historic sites such as Laura Secord Homestead, Brock's Monument, the Niagara Apothecary, Fort George, the list goes on.

---

<sup>ii</sup> FAITH IN RUINS: curated decay for the gothic arches of Saint John, Master's Thesis, Carleton University, Alice C. Fudge, 2020

<sup>iii</sup> Fram, *Well Preserved*, Ontario Heritage Trust

In our ongoing discussions with the neighbours (who are all being provide copies of this letter), the idea of a “museum” or “heritage site” were all dismissed due to access issues and traffic.

Transforming Paxton House into a museum would involve such a magnitude of change to be viable that in essence it will be a new creation, not an authentic built heritage resource.

One option to address these challenges is to convert Paxton House to a “heritage ruin”. In a recent Australian Government manual:

A heritage ruin is defined as a place that currently, through abandonment, redundancy, or condition, is disused and incomplete, is usually no longer maintained and appears unlikely to regain its original or a substantive use, function, or purpose other than interpretation.<sup>iv</sup>

Two interesting guiding principles that can be applied here came from a 2020 Master’s Thesis from a student at Carleton University who has also studied at Willowbank School of Restorative Arts:

To acknowledge that the values of the historic place are diverse and are not tied exclusively to its existence as a complete and functioning ‘building’.

To foster learning opportunities for traditional building craft through direct engagement with the historic fabric.

These ideas have helped to focus this proposal. We strongly recommend that you read and understand the logic of a heritage ruin. The thesis can be found [here](#).<sup>v</sup>

The managed ruin approach has been applied widely and successfully across Ontario, perhaps most famously at St. Raphael’s National Historic Site in eastern Ontario, and with local examples including Fort Mississauga National Historic Site and Ball’s Woolen Mill ruins at Ball’s Falls Conservation Area. Examples in a more urban environment are Mill Race Park in Cambridge, and Merrick’s Mills in Merrickville.

Converting Paxton House to a heritage ruin would involve removing the roof and all other components except for the some of the envelope walls and fireplace base in the basement. Landscaping would include improving drainage and filling the south portion of the basement in clean fill, while stabilizing the walls by repointing and supporting them by permanent supports erected on the interior. This might also include increasing access in the north so that the fireplace base is visible from the surface and, if possible, opening the basement for public access. There is sufficient lands already cleared on archaeological resources for a “parkette” with benches and interpretative plaques.

---

<sup>iv</sup> Ruins, A Guide to Conservation and Management, Australian Heritage Council

<sup>v</sup> We are in discussions with this heritage consultant for advice on the process and hope to engage her in the efforts.

The proposal is for INCREMENTAL RUINATION through conscious deconstruction and preservation activity over time.<sup>vi</sup>

Repurposing Paxton House as a heritage ruin has several practical and social benefits. Removing the roof would potentially reduce loading on the side façade walls and allow the stripping the modern interior that contain known contaminants and environmental hazards. More importantly, the property would become a public green space engaging its visitors with the physical remains of an over 200-year-old structure, and with a property directly associated with two under-represented themes in public history: Indigenous history before the arrival of Europeans, and the history of slavery in Canada.

On-site interpretation of this story could be conveyed in a number of ways, from static panels to QR codes linked to a Virtual Reality tour of Paxton House in 3D. It would also provide an opportunity to expose and interpret the archaeological remains of the summer kitchen, while its accessibility would offer a field site for Willowbank students and staff to explore historical masonry construction and potentially contribute to its long-term maintenance.

Liability remains a serious issue and this is going to take months to define.

## Summary

We find ourselves today in a situation not of our making. We continue to explore options to protect the heritage attributes of Paxton House, and have followed to the letter both the Town's heritage policies and the professional advice of all the consultants we engaged:

And, where once they might have “bulldozed”, far-sighted developers are now more likely to integrate heritage structures as valuable assets into their plans<sup>vii</sup>.

Yet, we also recognize that:

Though a site or building may be deemed important enough to be saved, it cannot be saved without the means to sustain its future<sup>viii</sup>

We are still prepared to remove the existing roof in the spring and determine possible next steps. But we cannot send crews into the basement safely until both the pressure on the walls is remediated and the environmental remediation is completed.

That is our reality.

Nevertheless, we will work with the Ministry of Labour to determine the next steps from their perspective and legislative mandates, and are also having detailed discussions with our insurance providers to determine liability issues.

---

<sup>vi</sup> FAITH IN RUINS: curated decay for the gothic arches of Saint John, Master's Thesis, Carleton University, Alice C. Fudge, 2020

<sup>vii</sup> Fram, *Well Preserved*, Ontario Heritage Trust

<sup>viii</sup> Fram, *Well Preserved*, Ontario Heritage Trust

We are prepared to meet (virtually) with you and the MHC to explore options. We have also requested that Dr. Cary be available for his expert opinion in up to 4, 1 hour online meetings.

We need a frank discussion about the economic viability of any rehabilitation as a residence and an exploration other options. We are also prepared, with your help, to identify potential funding sources to undertake rehabilitation.

Simply put, we cannot see a way forward to “stabilize” the structure in engineering, regulatory or heritage terms without an end use in focus. The economics of a 700 sq’ cottage with a price tag of \$2M is economically unsustainable. Alternative uses as a building code approved community asset would require parking and access concessions from the Town.

Therefore, our two specific asks of the Heritage Committee are as follows:

- 1] Agree to support our efforts to appeal the latest Property Standards Order that clearly contradicts the recommendations of the Heritage Conservation Plan and acknowledge that the stability of the building precludes carrying out such orders.
- 2] Allow us to develop and submit for the MHC’s review, a comprehensive plan for the incremental ruination and restoration as a creative ruin in situ.
- 3] Recommend to Town Council that Condition 31 of the OMB Decision be amended to allow for these actions.
- 4] Assist in identification of potential funding sources to assist in the creation of the Second Homestead Community Parkette with appropriate markers and acknowledgment of the history of the site.

We point out again, that another Property Standards Order to bring the structure up to any semblance of today’s building code standards both negates the potential for any heritage conservation and takes the focus away from the narrative that we have painstakingly built of the history of the structure.

If you believe the house can be rehabilitated as a residence, we are happy to allow you, or another set of consultants of your choice, at your cost and liability, to access the structure. We will, however, require waivers to be signed and proof of liability insurance.

Sincerely

*Signed and send electronically and mailed 2 March, 2021*

Steven Megannety  
Project Lead for 2233947 Ontario Limited

This letter was written with the input of Dr. Henry Cary as an extension of the Heritage Conservation Plan.

Cc: 2233497 Ontario  
Lord Mayor Betty Disero  
Mr. T. A. Richardson  
Mr. Paul Lowes  
Ms. Marcie Cluckie  
Neighbours on Paxton Lane

#### Attachments

Matterport videos, annotated with links to relevant documents and unannotated.

#### Additional Readings

<https://saintraphaelsruins.com>

[https://commons.wikimedia.org/wiki/File:Mill\\_Race\\_Park\\_\(37229892741\).jpg](https://commons.wikimedia.org/wiki/File:Mill_Race_Park_(37229892741).jpg)

<https://conservationhamilton.ca/hermitage-ruins-stabilization-and-restoration-project/>

<https://uwaterloo.ca/heritage-resources-centre/blog/post/ruins-ontario-landscape-part-two>

<https://ghostwalks.com/hermitage-ruins/>

[https://conservationhamilton.ca/images/PDFs/Parks/Hermitage/House\\_Panel.pdf](https://conservationhamilton.ca/images/PDFs/Parks/Hermitage/House_Panel.pdf)

<https://www.environment.gov.au/system/files/resources/e4e0fb1f-2553-4a3c-b454-2f7d630cdd6a/files/ruins.pdf>

<https://www.buildingsofireland.ie/app/uploads/2019/10/Ruins-The-Conservation-and-Repair-of-Masonry-Ruins-2010.pdf>