

**THE CORPORATION OF THE TOWN OF GEORGINA**

**REPORT NO. OI-2021-0019**

**FOR THE CONSIDERATION OF  
COUNCIL**

June 9, 2021

**SUBJECT: Assumption of Roads in the Estonian Summer Homes Association Subdivision and Kova Subdivision, Udora**

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**1. RECOMMENDATION:**

1. That Council receive Report OI-2021-0019 prepared by the Operations & Infrastructure Department, dated June 9, 2021 respecting the assumption of roads and public works within the Estonian Summer Homes Association Subdivision - Registered Plan 544, and the Kova Subdivision - Registered Plan 588.
2. That a By-law be adopted to assume the maintenance of all roads and the public right-of-ways within Plan 544 and Plan 588, and to amend Schedule "A" to By-law 94-60 (PWO-2),
3. That Council direct staff to initiate the engineering work and public consultation process to improve the roads to an acceptable standard as an all-season gravel road surface.

**2. PURPOSE:**

To seek Council approval to assume the roads as public highways and assume the cost of maintenance of these roads within the Estonian Summer Homes Association Subdivision - Registered Plan 544, and the Kova Subdivision - Registered Plan 588, in the community of Udora.

**3. BACKGROUND:**

On May 26, 1961, the Town entered into a subdivision agreement with the trustees of the Estonian Summer Homes Association (Association) in connection with Plan of Subdivision 544.

On May 1, 1968, the Town entered into a subdivision agreement with of the Mr. Lembit Kova (Kova) in connection with Plan of Subdivision 588.

The location of these two subdivisions are shown in Attachment 1.

The roads within both Plans were dedicated as public highways at the time of registration. Both subdivision agreements contain clauses requiring the owner(s) to maintain the roads as public highways at their sole expense until such time as the owner applies to the municipality for assumption of the roads. The Town agreed to assume the roads provided they were in a condition which met the criteria established at the time by the Ontario Department of Highways. Since that time, the owners have not requested formal assumption of these roads, and there is no record of the Town passing a By-law to assume the maintenance of these roads.

In recent years, the owner(s) have no longer been able to fulfill their obligations under the subdivision agreements to maintain the roads. The road conditions have deteriorated, and the Town has provided increased reactive maintenance in order to ensure that safe access to properties is maintained.

#### **4. ANALYSIS:**

A recent review undertaken by the Town Solicitor has determined that that road maintenance provisions of existing subdivision agreements cannot be enforced against either the trustees of the Estonian Summer Homes Association or Mr. Lembit Kova. There were no legal successors, heirs or assignees found for either the Association or Mr. Lembit Kova in relation to the agreements. Further, the Town did not retain any form of financial security through the subdivision agreements for the ongoing maintenance of the roads, or the eventual upgrades required prior to assumption of maintenance of the roads.

Given that the subdivision agreements cannot be enforced, and that the Town is the owner of the public roads, Staff recommend formally assuming the maintenance of the roads, and addressing the existing deficiencies found. This will address the on-going concerns raised by the local residents with respect to the maintenance of the roads, and the uncertain status of the subdivision agreements.

On the date of assumption, Section 44 of the Municipal Act will apply and the Town will be legally responsible for on-going maintenance to keep the roads in a state of repair “*that is reasonable in the circumstances, including the character and location of the highway*”. In this regard, Staff recommend that the roads should be reconstructed to an approved municipal standard for an all-season gravel road. This status is consistent with the intent of the original subdivision agreements and the original construction of these roads.

All-season gravel roads typically represent lower volume road segments with an annual average daily traffic (AADT) of less than 400 vehicles per day. The roads within these two subdivisions fall within this range.

During the 2021 budget process, Council approved funds to undertake legal surveys, a geotechnical investigation and preliminary engineering design necessary to determine the costs associated with rehabilitating the road system within Plan 544

and Plan 588. The engineering design investigation will include a cost-benefit analysis with respect to upgrading these roads with an improved bituminous surface treatment (OPSS 304) versus maintaining an all-season gravel road surface.

**5. RELATIONSHIP TO STRATEGIC PLAN:**

**Deliver exceptional service- manage our finances and asset proactively.**

The Town is required to maintain roads in a state of good repair and to maintain assets in a fiscally responsible manner meeting the level of service expected by residents and users of the assets.

**6. FINANCIAL AND BUDGETARY IMPACT:**

Funding in the amount of \$300,000 has been approved in the 2021 capital budget (Business Case 21-OI-10) for the preliminary investigation and engineering design of these roads. Results of this assessment and preliminary costs to bring these roads up to an acceptable standard as an all-season gravel road will be presented to Council for consideration once completed.

**7. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:**

Public consultation will be an integral part of the process. The reconstruction program will be phased over multiple years subject to Council approval of the necessary capital projects.

**APPROVALS**

Prepared By: Nancy Fleming, P.Eng.  
Manager, Asset Management and Technical Services

Reviewed By: Rob Wheeler, CPA, CA  
Director of Corporate Services / Treasurer

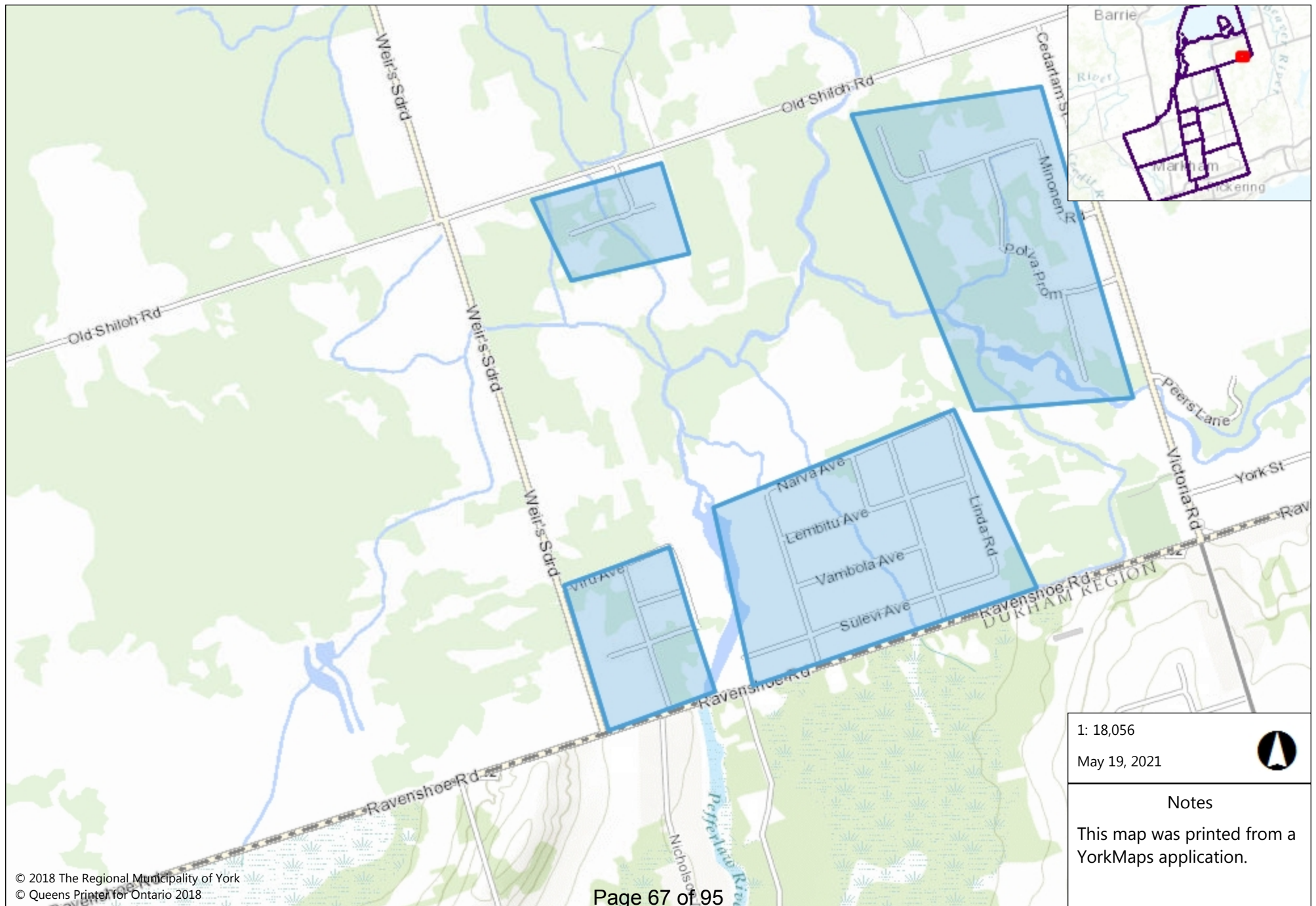
Recommended By: Rob Flindall, P.Eng.  
Director, Operations and Infrastructure

Approved By: David Reddon  
Chief Administrative Officer

Attachments:

1. Subdivision Location Map





1: 18,056

May 19, 2021



Notes

This map was printed from a YorkMaps application.