

THE CORPORATION OF THE COUNTY OF ESSEX

BY-LAW NUMBER 17-2012

**A BY-LAW AUTHORIZING THE EXECUTION OF A
JURISDICTIONAL TRANSFER AGREEMENT FOR
CERTAIN ROADS WITHIN THE MUNICIPALITY OF
LEAMINGTON**

WHEREAS section 52 of the *Municipal Act, 2001, S.O. 2001,c.25* provides that an upper tier municipality may add or remove a lower tier highway from its highway system;

AND WHEREAS Leamington and the County have jointly undertaken the construction of an arterial roadway within the boundaries of Leamington;

AND WHEREAS a condition for the County to assist in funding the construction of Road 33 was the transfer of jurisdiction of certain county roads to Leamington and the assumption of Road 33 by the County upon the completion of Road 33;

AND WHEREAS Road 33 was constructed on lands acquired by Leamington and the newly constructed highway is presently under the jurisdiction of Leamington;

AND WHEREAS Road 33 is now completed;

NOW THEREFORE the Council of the Corporation of the County of Essex enacts as follows:

1. THAT the Warden and Clerk be and they are hereby authorized to execute the Jurisdictional Transfer Agreement for certain roads within the Municipality of Leamington, between the Municipality of Leamington and the Corporation of the County of Essex, a copy of which is attached hereto.
2. This By-law shall come into force and take effect on the date of passing.

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By-law #17-2012 (cont'd)



TOM BAIN, WARDEN



MARY S. BRENNAN, CLERK

1st Reading – March 21st, 2012
2nd Reading – March 21st, 2012
3rd Reading – March 21st, 2012

CLERK'S CERTIFICATE

I, Mary S. Brennan, Clerk of the Corporation of the County of Essex, do hereby -certify that the foregoing is a true and correct copy of By-law Number 17-2012 passed by the Council of the said Corporation on the 21st, day of March, 2012.

Mary S. Brennan, Clerk
Corporation of the County of Essex

JURISDICTIONAL TRANSFER AGREEMENT
FOR CERTAIN ROADS WITHIN THE MUNICIPALITY OF LEAMINGTON

BETWEEN:

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

(herein, Leamington)

-and-

THE CORPORATION OF THE COUNTY OF ESSEX

(herein, the County)

WHEREAS section 52 of the Municipal Act, 2001, S.O. 2001,c.25 provides that an upper tier municipality may add or remove a lower tier highway from its highway system;

AND WHEREAS Leamington and the County have jointly undertaken the construction of an arterial roadway within the boundaries of Leamington formerly referred to as the East Side Arterial Road and now known as Leamington Road 33 (herein, Road 33) as shown on *Schedule "A"* attached to this agreement;

AND WHEREAS a condition for the County to assist in funding the construction of Road 33 was the transfer of jurisdiction of certain county roads to Leamington and the assumption of Road 33 by the County upon the completion of Road 33;

AND WHEREAS Road 33 was constructed on lands acquired by Leamington and the newly constructed highway is presently under the jurisdiction of Leamington;

AND WHEREAS Road 33 is now completed;

NOW THEREFORE in consideration of the covenants herein and for other good and valuable consideration, the Parties agree as follows:

1. TRANSFER OF JURISDICTION

Both the County and Leamington shall enact all necessary by-laws and take all necessary steps to effect the jurisdictional transfer of the following roads to take effect April 1, 2012:

Transfer to County

The County shall add to its highway system the entirety of Road 33 from the northern limit of Seaciff Drive East/County Road 20 to the southern limit of County Road 34 as shown on *Schedule "A"* attached to this agreement.

Transfer to Leamington

The County shall remove the following existing County Roads from its highway system and the said roads shall be under the jurisdiction of Leamington

County Road 20 - From the eastern limit of Road 33 to the eastern limit of Mersea Road 19
 County Road 37 - From County Road 20 to the southern limit of County Road 34,

as shown on *Schedule "B"* attached to this agreement.

Both the County and Leamington acknowledge that a formal transfer of the title to the above noted roads may be required to effect the jurisdictional transfer. In the event any additional Reference Plans are required to complete the transfer of title for any of the said roads then the costs to prepare and register any such Reference Plan shall be shared by the Parties. The cost to register the Transfer, by-law and any other necessary documents related to Road 33 shall be at the sole cost of the County. The cost to register the Transfer, by-law and any other necessary documents related to County Road 20 or County Road 37 shall be at the sole cost of Leamington.

2. OPERATIONAL COSTS

As previously agreed by both Parties, the County has been maintaining Road 33 since it was opened to the public. The County shall continue to be responsible for all maintenance activities on Road 33 and all existing County Roads until the transfer comes into effect.

Each Party will assume all maintenance activities for roads under their respective jurisdictions upon finalization of the road transfers. Illumination cost responsibilities on Road 33 will be in accordance with current County Policy as amended from time to time.

The County shall be responsible for the operation, maintenance and replacement of the traffic signal system at the intersections of Talbot Street East and Road 33, Oak Street East and Road 33 and Seacliff Drive and Road 33.

3. FUTURE IMPROVEMENTS TO ROAD 33

The Parties hereto acknowledge and agree that any and all changes within the Road 33 right-of-way shall be constructed by the County or its agents, unless the express written approval of the County is granted to allow any other person to construct any such improvements.

Development Driven Improvements

Any and all costs incurred to address development driven improvements within the Road 33 right-of-way not identified in the original East Side Arterial Road Environmental Study Report dated February 7th, 2012 or not constructed at the time of transfer will be the responsibility of Leamington. The County consents to Leamington pursuing cost recovery through Development Charges or Development Agreements or Local Improvement Charges as Leamington may determine appropriate and is in accordance with Provincial legislation.

Such improvements include but are not limited to:

- noise barriers (new or existing developments)
- buffer strips / screening
- sidewalks / trails/pathways
- bike lanes
- landscaping
- signalization of Clarence Avenue
- channelization / turn tapers
- turn lanes at Street "A"
- sanitary sewers
- watermains
- storm sewers

Capacity Expansion

Through the planning phases of the East Side Arterial Road Environmental Study Report, Road 33 was identified ultimately as a four lane facility. Timing for the future widening has not been identified and will be triggered by future development.

It is the intention of the Parties that any and all costs associated with the planning/design and construction of future capacity improvements are to be shared between the County and Leamington. Future cost sharing agreements are to be executed when deemed appropriate and necessary by the County in its sole discretion.

Property Access

The County shall manage the Road 33 corridor as a "Controlled Access" highway. No additional access will be permitted to Road 33 to protect the highway's safety and capacity performance. Notwithstanding this prohibition, the County agrees to allow access to Road 33 at Street "A" as shown on ***Schedule "A"*** to this agreement, which access had previously been approved by Leamington. The County may also allow temporary access for emergency vehicles only from the east side of Road 33 on terms and conditions satisfactory to the County to facilitate development of certain lands on the west side of Road 33 and south of Clarence Avenue on a phased basis.

Utility Corridors

The development of future utilities within the Road 33 right-of-way will be permitted upon execution of formal agreements for access as may be required by the County, in its sole discretion. Priority will be given for the future installation of a sanitary sewer by Leamington. A utility corridor for a sanitary sewer to be constructed by Leamington will be identified and protected from other utilities.

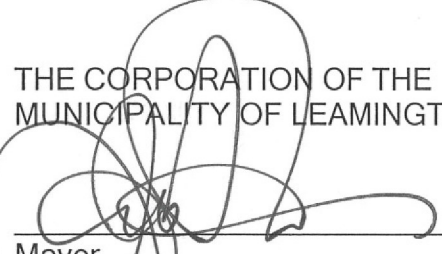
One Foot Reserves


Any existing "one foot reserves" currently held by Leamington along the Road 33 corridor are to remain as reserves and shall be added by the County to its highway system.

4. DISPUTE RESOLUTION

In the event there is any dispute over any term in this agreement, the dispute shall be resolved by arbitration by reference to a single arbitrator pursuant to the provisions of the *Arbitration Act, 1991* S.O. 1991, c. 17.

THE CORPORATION OF THE
MUNICIPALITY OF LEAMINGTON



Mayor

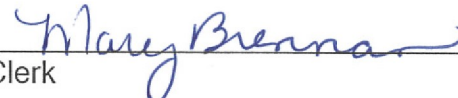
Clerk BRIAN R. SWEET

March 29, 2012

Date

THE CORPORATION OF THE
COUNTY OF ESSEX

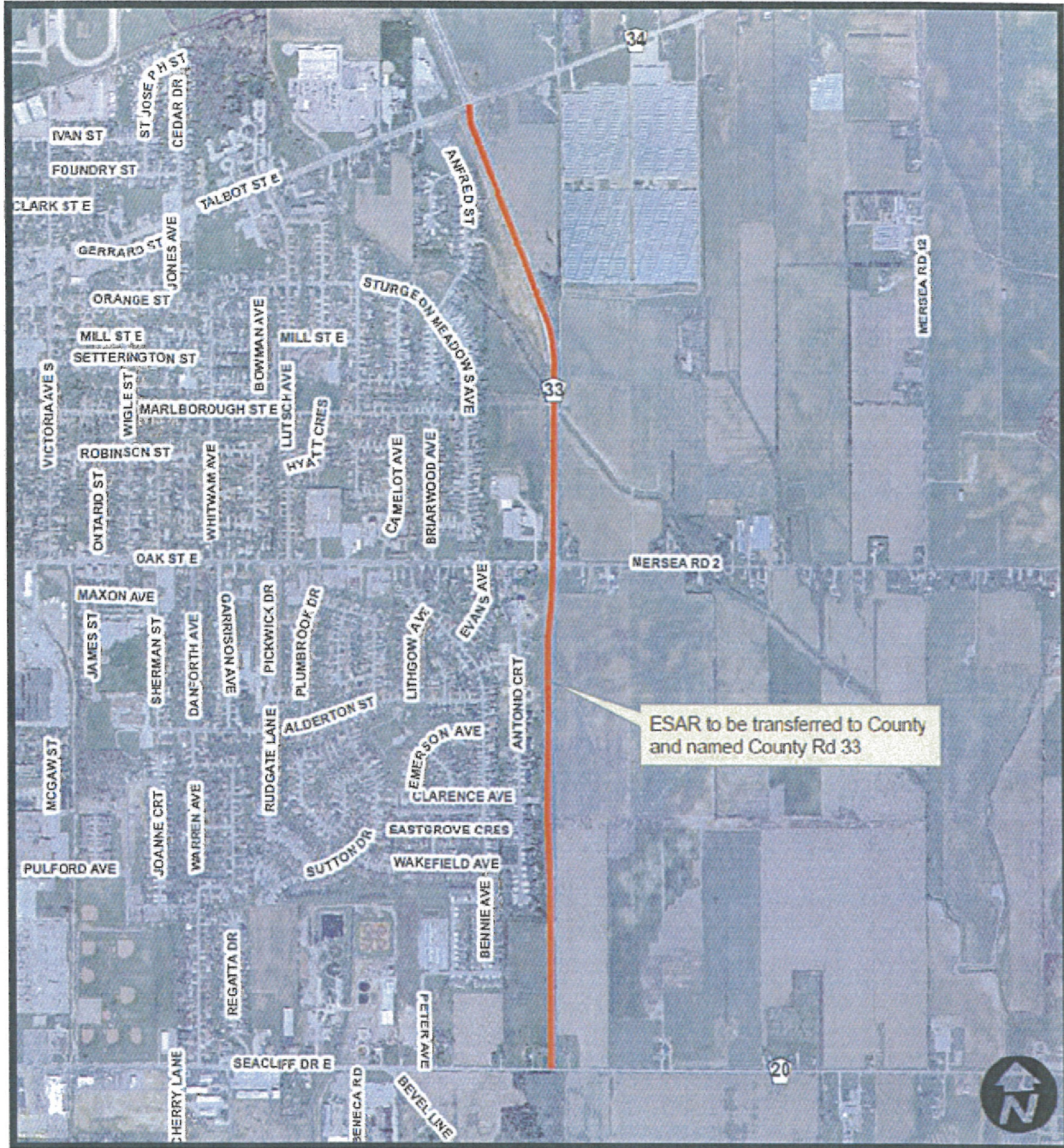


Warden

Clerk

March 21, 2012

Date



Legend

— East Side Arterial Road (ESAR)

Title: Schedule A

Scale: 1:15,000 0 100 200 400 Meters

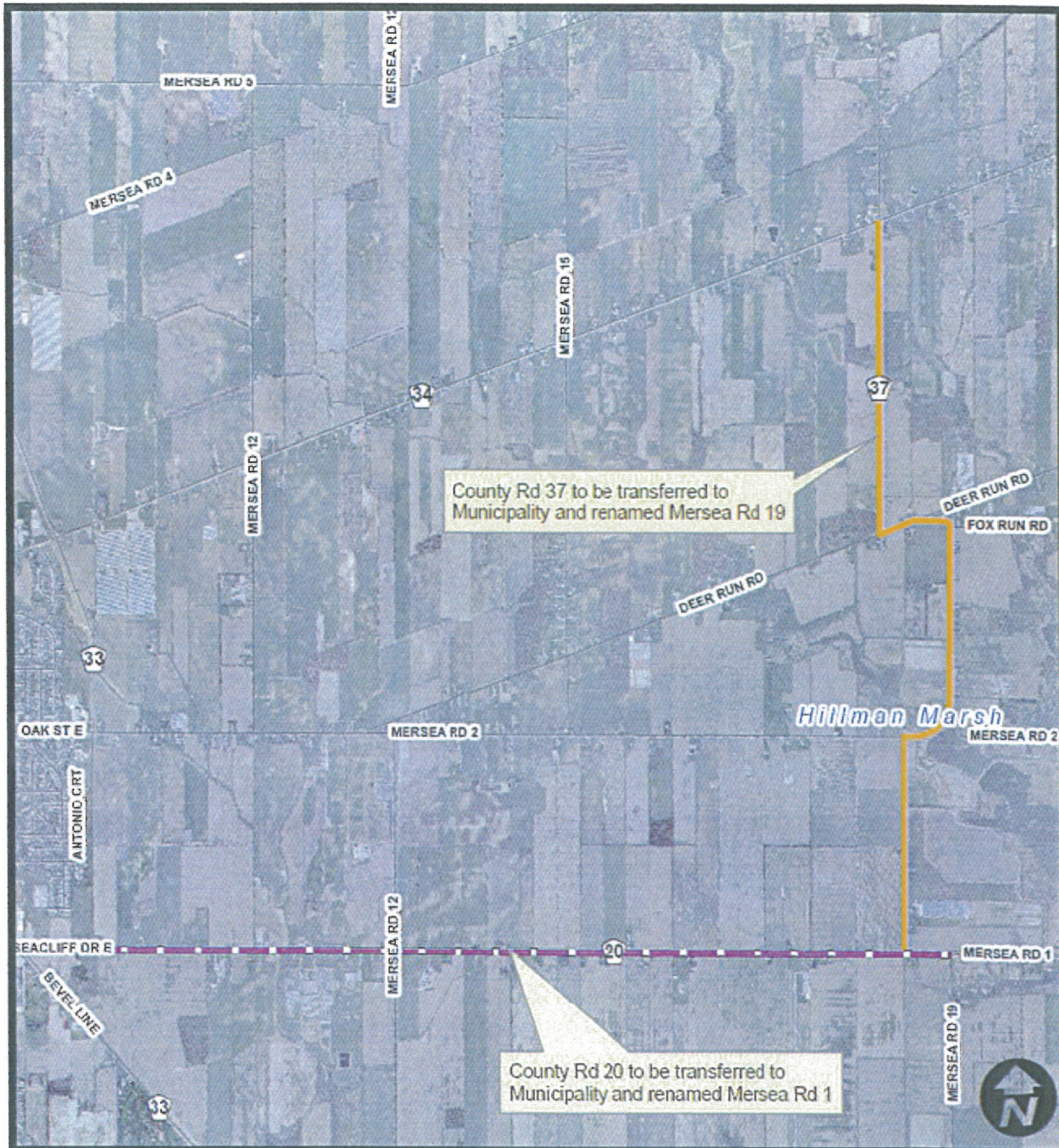
Prepared For: Eng Dept **Date:** January 26, 2012

Prepared By: GIS Services **File No:** ENG-10-11

Notes


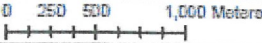
This map is the property of the Corporation of the Municipality of Leamington and may not be reproduced without expressed permission and authorization.
 111 Erie Street North, Leamington, Ontario N0B 2Z9
 TEL: (519) 325-9791 FAX: (519) 326-2481

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Legend

- COUNTY ROAD 20
- COUNTY ROAD 37

Title: Schedule B		
 <p>LEAMINGTON SHIRE COUNCIL</p>	Scale: 1:35,000	
	Prepared For: Eng Dept.	Date: January 26, 2012
COPYRIGHT <small>This document is not a Legal Plan of Survey and the user of this map assumes all risks associated with it. All efforts have been made to ensure completeness and accuracy, however no guarantees can be made.</small>	Prepared By: GIS Services	File No: ENG-19-11
Notes:	<small>This map is the property of the Corporation of the Municipality of Leamington and may not be reproduced without expressed permission and authorization. 111 Erie Street North, Leamington, Ontario N8W 2Z9 TEL: (810) 329-6761 FAX: (810) 329-2481</small>	

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**BONDY
RILEY
KOSKI, LLP**

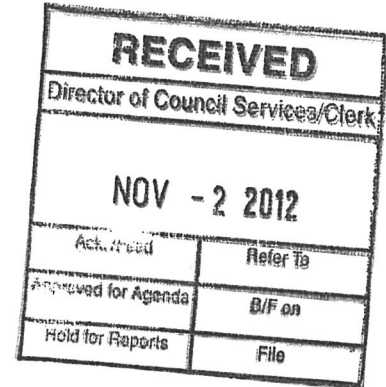
Barristers, Solicitors & Notaries

Richard J. Bondy, B.A., LL.B. (retired 2000)
Christine A. Riley, B.A., LL.B.
Gerald W. Koski, B.A., LL.B.

Suite 310
176 University Avenue West
Windsor, Ontario
Canada N9A 5P1
Telephone (519) 258-1641
Facsimile (519) 258-1725

November 1, 2012

**THE CORPORATION OF
THE COUNTY OF ESSEX**
360 Fairview Avenue West
Essex, Ontario N8M 1Y6



Attention: Ms. Mary Brennan, Director of Council Services/Clerk

Dear Ms. Brennan:

**RE: Essex Roads – Transfer Agreement with Leamington
Our File No.: 190-109**

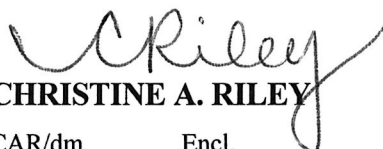
Enclosed please find the following for execution by yourself and the Warden:

1. Three copies of an Acknowledgment and Direction for the Transfer from the Municipality of Leamington to the County of Essex regarding County Road 33;
2. Three copies of an Acknowledgment and Direction for the Transfer from the Municipality of Leamington and the County of Essex to the Municipality of Leamington regarding County Road 37;
3. Three copies of an Acknowledgment and Direction for the Transfer of all of County Road 20 as set out in the Transfer Agreement with the Municipality of Leamington; and
4. Three copies of an Acknowledgment and Direction for the Transfer of that part of County Road 37 between County Road 34 and North Talbot Road to confirm the jurisdiction of the County of Essex.

Once these documents have been signed, please return them to my office for registration.

Yours truly,

BONDY RILEY KOSKI LLP


CHRISTINE A. RILEY

CAR/dm

Encl.