



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 8.1.1 (ii)
Harbour East-Marine Drive Community Council
February 5, 2015

TO: Chair and Members of Harbour East-Marine Drive Community Council

SUBMITTED BY:



Original signed

Bob Bjerke, Chief Planner & Director, Planning and Development

DATE: January 14, 2015

SUBJECT: Case 19266: Substantive Amendment to the Development Agreement at
174 Ochterloney Street, Dartmouth

SUPPLEMENTARY REPORT

ORIGIN

- Application by G. Carl Brown on behalf of Imperial Oil Ltd.
- January 8, 2015 Harbour East-Marine Drive Community Council gave Notice of Motion to schedule a Public Hearing for February 5, 2015

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Part VIII, Planning and Development

RECOMMENDATION

It is recommended that Harbour East-Marine Drive Community Council:

1. Approve the proposed amending development agreement, as set out in Attachment A of this report, to permit the internal lighting of a ground sign at 174 Ochterloney Street, Dartmouth to take effect upon the registration of the confirmatory development agreement (Attachment B); and
2. Require the amending development agreement be signed by the property owner within 120 days, or any extension therefore granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND/DISCUSSION

A development agreement amendment application has been submitted by Imperial Oil Ltd. to enable a ground sign at 174 Ochterloney, Dartmouth (Map 1) to be internally illuminated. Under the existing agreement a new ground sign is permitted, but must be externally illuminated; therefore a substantive amendment to the existing agreement is required to enable this to occur. Harbour East-Marine Drive Community Council has scheduled a public hearing for February 5, 2015. The purpose of this supplementary staff report is to provide Community Council with a partial confirmatory development agreement which is needed to confirm terms that form part of the existing agreement which is requested to be amended but which are not included in the version of the document on file at the Land Registration Office.

During the review of existing agreement a number of administrative errors were found in the version of the agreement which is registered on title. A new confirmatory development agreement (presented in the staff report dated December 22, 2014) was prepared to adjust these inconsistencies. Subsequent to the submission of the staff report dated December 22, 2014 other inconsistencies have been identified and staff are in the process of reviewing these items prior to finalizing the confirmatory agreement. However, in order to proceed with consideration of the request to internally illuminate the ground sign, a partial confirmatory agreement (Attachment B) has been prepared to correct the administrative errors related to signage. This document reinstates the provision for a ground sign with the condition that the sign is to be illuminated through the use of appropriate external spot lighting. The confirmatory agreement also reinstates Schedule B which identifies the ground sign as well as Schedule E which was missing from the existing agreement. It should be noted that the confirmatory agreement does not require any direction by Council as it simply serves to confirm what has already been duly approved by Community Council.

FINANCIAL IMPLICATIONS

There are no budget implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the approved budget with existing resources.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy and is detailed in the staff report dated December 22, 2014.

ENVIRONMENTAL IMPLICATIONS

No implications have been identified.

ALTERNATIVES

1. Community Council may choose to refuse to approve the discharge and amending agreement and, in doing so, must provide reasons why the agreement does not reasonably carry out the intent of the MPS. A decision of Community Council to refuse this amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Community Council may choose to approve the proposed amending agreement subject to modifications. This may necessitate further negotiation with the applicant, a supplementary staff report and an additional public hearing. A decision of Community

Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Attachment A	Proposed Amending Development Agreement
Attachment B	Confirmatory Development Agreement

Available Upon Request:

Staff Report - Case 19266: Substantive Amendment and Discharge of Development Agreement at 174 Ochterloney Street, Dartmouth

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Thea Langille, Major Projects Planner 902.490.7066

Original signed

Report Approved by:

Kelly Denty, Manager Development Approvals 902.490.4800

AND WHEREAS the Developer has requested that the Municipality enter into a Amending Agreement to allow a ground sign to be internally lit on the Lands pursuant to the

provisions of the Halifax Regional Municipality Charter and pursuant to Policies B-9 and D-1 of the Downtown Dartmouth Secondary Planning Strategy and Section 10 (4) of the Downtown Dartmouth Land Use By-law;

AND WHEREAS the Harbour East –Marine Community Council for the Municipality approved this request at a meeting held on _____, referenced as Municipal Case Number 19266;

THEREFORE, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree to the following amendments to the Existing Agreement:

1. Section 2.8.3 of the Existing Agreement shall be amended by deleting the sentence “The Developer further agrees that this sign may only be illuminated through the use of appropriate external spot lighting.” and replace with sentence “The Developer further agrees that this sign may be internally lit”.
2. The Existing Agreement shall be amended by deleting “Schedule E” and replacing it with a new Schedule E-1 attached hereto as Schedule E-1.

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

Witness

SIGNED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

Witness

Witness

(Insert Registered Owner Name)

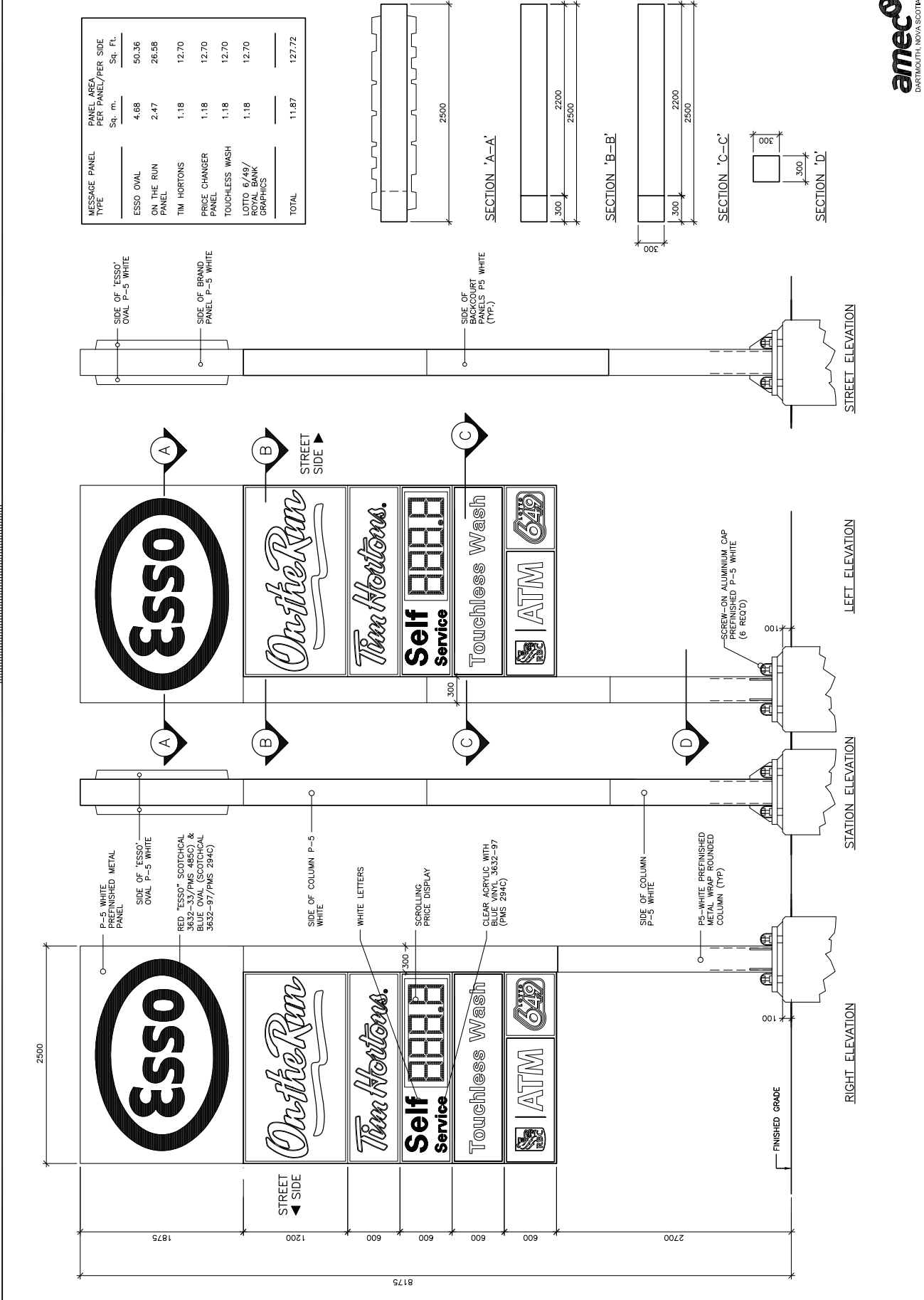
Per:_____

HALIFAX REGIONAL MUNICIPALITY

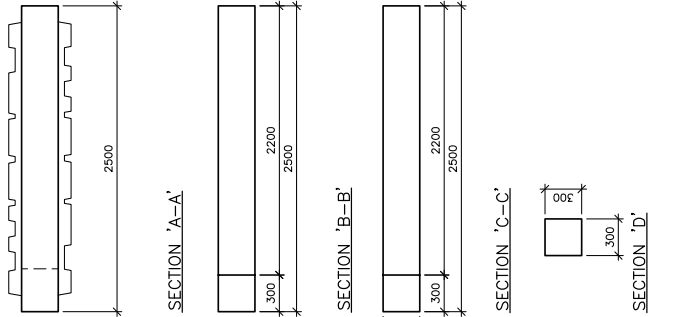
Per:_____
MAYOR

Per:_____
MUNICIPAL CLERK

Schedule E-1- Ground Sign



MESSAGE PANEL TYPE	PANEL AREA PER PANEL/PER SIDE	Sq. Ft.
ESSO OVAL	4.88	50.36
ON THE RUN PANEL	2.47	26.58
TIM HORTONS	1.18	12.70
PRICE CHANGER PANEL	1.18	12.70
TOUCHLESS WASH	1.18	12.70
LOTTO 6/49/ROYAL BANK GRAPHICS	1.18	12.70
TOTAL	11.87	127.72



Notes 18

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**Attachment B
Partial Confirmatory Agreement**

THIS AGREEMENT made this day of , 2015,

BETWEEN:

(Insert Registered Owner Name)
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY,
a body corporate, in the County of
Halifax, Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of lands located at 174 Ochterloney Street (PID #00230912), Dartmouth, Nova Scotia, and which said lands are more particularly described in Schedule 'A' to this agreement (hereinafter called the "Lands");

AND WHEREAS the Harbour East Community Council of Halifax Regional Municipality approved an application by the Developer to enter into a development agreement to allow for the construction of a convenience store in conjunction with an existing retail gasoline station and car wash on the Lands (Municipal Case #00443) which said development agreement was registered at the Registry of Deeds at Halifax in Book No. 7116 at Pages 660 to 675 as Document Number 32597 (hereinafter called the "Existing Agreement");

AND WHEREAS the Harbour East Community Council of Halifax Regional Municipality approved an amending agreement to allow certain existing ground signs to remain on the Lands (Municipal Case #00780) which said amendment agreement was registered at the Registry of Deeds at Halifax as Document Number 88681839 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Harbour East-Marine Drive Community Council for the Municipality approved by resolution a discharge agreement discharging the First Amending Agreement (Municipal Case #19266) which said discharge agreement was registered at the Registry of Deeds at Halifax as Document Number (insert number) (hereinafter called the "Discharge Agreement");

AND WHEREAS (insert owner name) and the Halifax Regional Municipality is entering into a Partial Confirmatory Agreement to document and correct an error at the time of registering of the Existing Agreement related to ground signage.

THEREFORE, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree to the following amendments to the Existing Agreement:

1. Section 2.8.3 of the Existing Agreement be deleted and replaced with the following new Sections:

“2.8.3 The base of the new ground sign shall be brick which is complementary in colour to the new convenience store. Landscaping in the form of shrubs shall be provided around the sign base in the planter. The Developer further agrees that this sign may only be illuminated through the use of appropriate external spot lighting.

2.8.4 Building fascia signs shall be permitted as shown on Schedule ‘C’.”

2. The Existing Agreement shall be amended by deleting “Schedule B” and replacing it with a new Schedule B attached hereto as Schedule B.
3. The Existing Agreement shall be amended by adding “Schedule E” attached hereto as Schedule E.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written:

SIGNED, SEALED AND DELIVERED in the presence of:

Witness

SIGNED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

Witness

Witness

(Insert Registered Owner Name)

Per:_____

HALIFAX REGIONAL MUNICIPALITY

Per:_____
MAYOR

Per:_____
MUNICIPAL CLERK

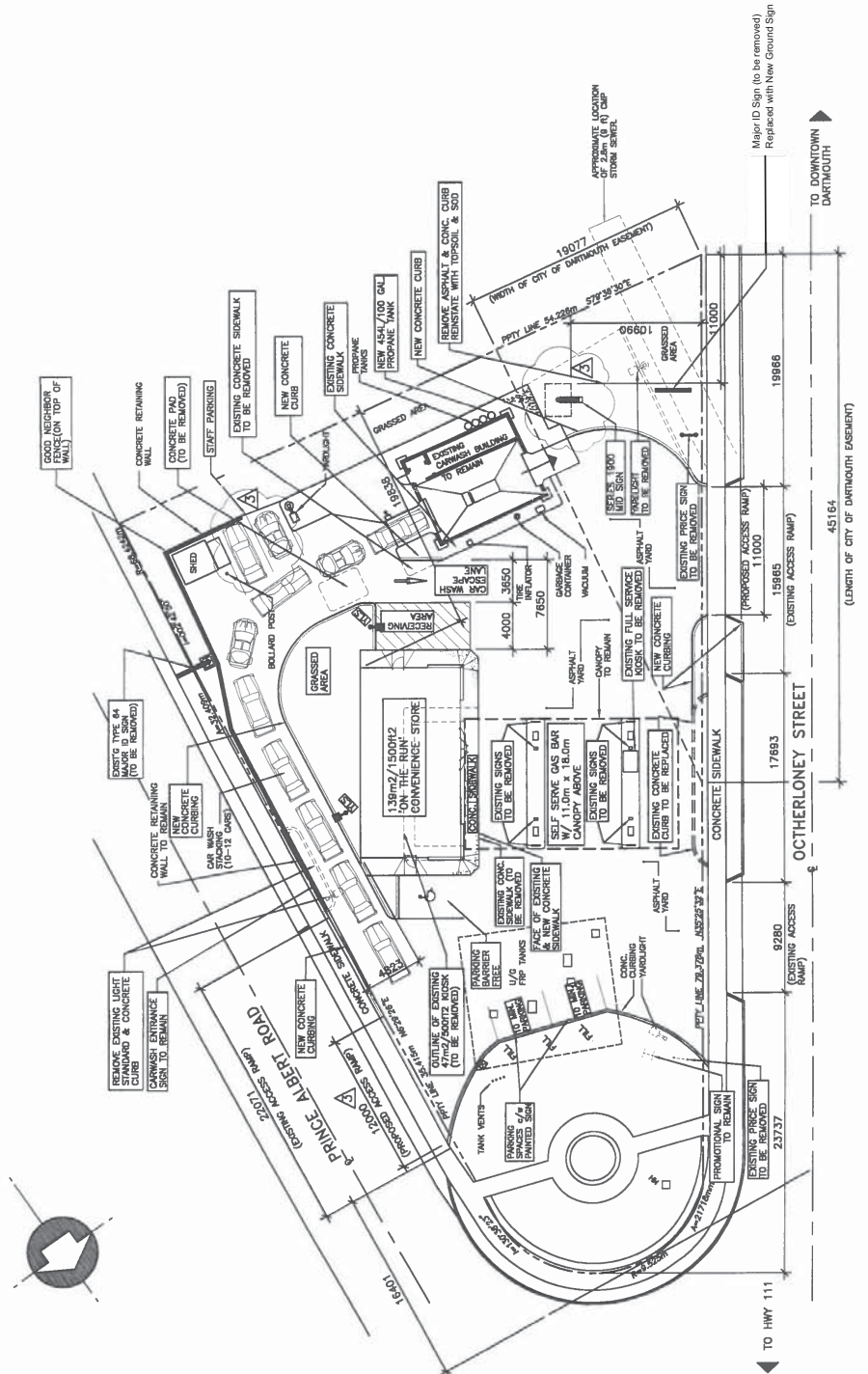
Date	#	Revision
02 01 31	0	ISSUED FOR PERMIT
02 03 04	1	REVISED AS PER P.J.M.'S COMMENTS
02 03 20	2	RELOCATED CURB AROUND M.I.D. SIGN
02 04 08	3	RELOCATED STAFF PARKING AND MID, REDUCED ENTRANCE AT P.A.R.

Project/Project 174 OCHTERLONEY STREET DARTMOUTH, N.S.			SAP No. SAP RWIN No. RWIN		- 32A0282-02P	
Title/Schema PROPOSED SITE PLAN			Sheet/Sheet 03		Proposed/Revision 001	
Scale 1:200	(28"x34") Scale 1:400	Date 01 12 04	By/Per AMEC	P.L./C.P. E.B.	Rev.No./Rev. 3	

Schedule B - Site Plan

NOTES:

1. PROPERTY & EXISTING SITE INFORMATION NOTED ON THIS DRAWING IS TAKEN FROM PREVIOUS IMPERIAL OIL LIMITED DRAWINGS & IS SUBJECT TO VERIFICATION.

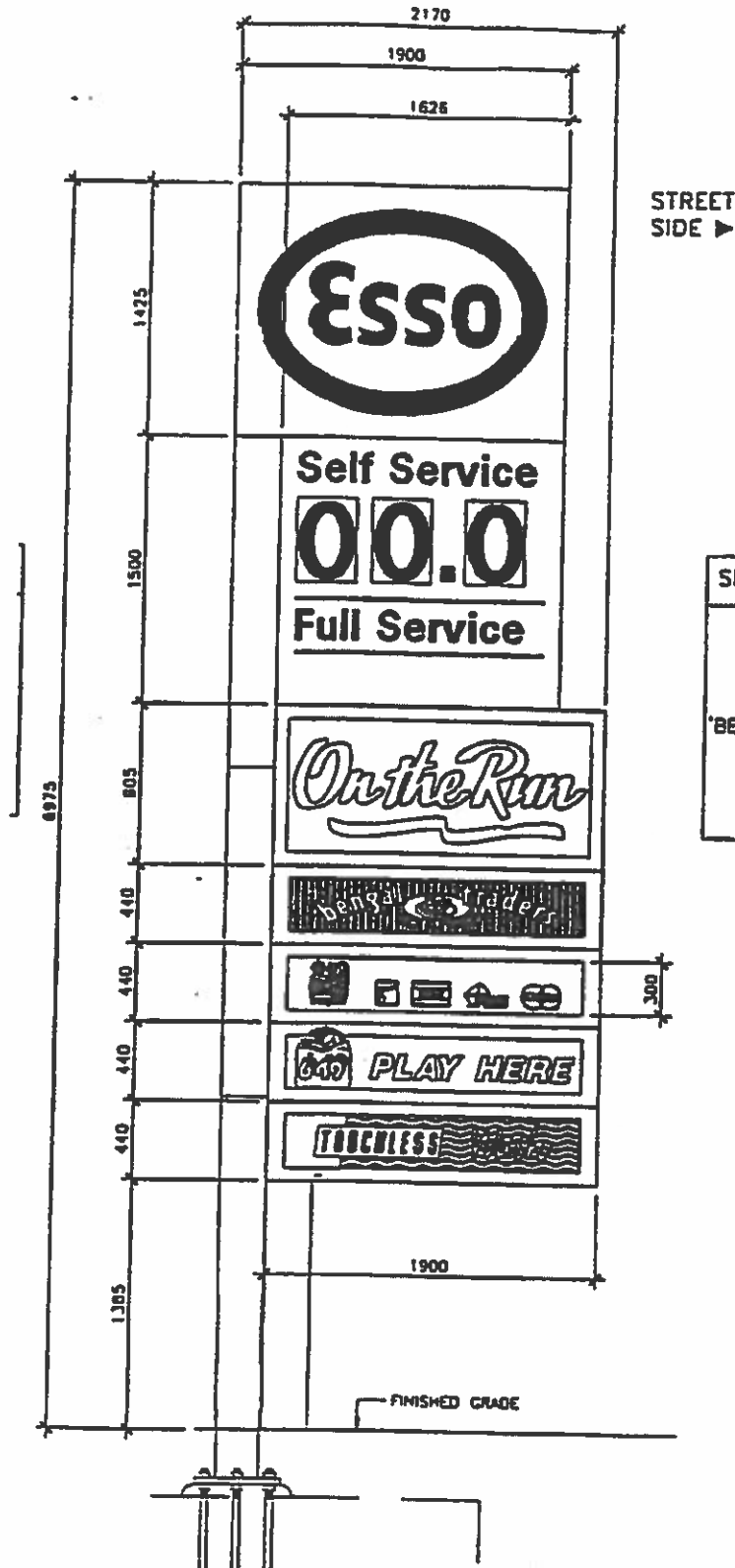


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HALIFAX, NOVA SCOTIA

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Schedule 'E' Ground Sign



SIGN DATA (NEW MID SIGN):

ITEM	m2	ft2
'ESSO OVAL' PANEL	2.71	29.17
'DIGITAL PRICE' PANEL	2.45	26.37
'ON THE RUN' PANEL	1.31	14.10
'BENGAL TRADERS' PANEL	0.51	5.49
'ROYAL BANK' PANEL	0.51	5.49
'LOTTO' PANEL	0.51	5.49
'CAR WASH' PANEL	0.51	5.49
TOTAL	8.51	91.60

SIGN AREA (PROPOSED 1900 SERIES SIGN—PER SIDE):

1 20 (22"x34" PLOT)
1 40 (11"x17" PLOT)

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