

Halifax Regional Council
December 3, 2002

TO: His Worship Mayor Peter Kelly and
Members of Halifax Regional Council

FROM: Sheila Fougere
Councillor Sheila Fougere, Chair
Peninsula Community Council

DATE: November 20, 2002

SUBJECT: Case 00440: Review of C-2(General Business) Zone in District 12 re
Auto Body Repair and/or Paint Shops

ORIGIN

Peninsula Community Council November 4, 2002

RECOMMENDATION

That Regional Council direct staff to begin the process of public consultation to consider amendments to the MPS relative to auto body repair and/or paint shops as set out in Options 3 and 4 of the attached September 4, 2002 Information Report.

BACKGROUND

Councillor Sloane raised this matter at the January 14, 2002 meeting of Peninsula Community Council at which time she requested a staff report regarding C-2 Zoning in District 12, and, in particular, the location of paint shops and autobody shops. Councillor Sloane indicated that she would like to ensure that no new operations of this type are located in District 12, while grandfathering those that presently exist.

DISCUSSION

Peninsula Community Council received the September 4, 2002 Information Report at a meeting held on September 9, 2002. Consideration of the matter was subsequently deferred to November 4, 2002 at which time the Committee approved the recommendation found above. Note should be made that Councillor Uteck indicated that although she believed further regulation was required, she did not wish to see the C-2 use completely eliminated from the Peninsula area.

BUDGET IMPLICATIONS

Although there may be no direct costs involved, the activities associated with undertaking MPS amendments to restrict body shops must be supported within existing business unit budgets and staff resources.

FINANCIAL MANAGEMENT/BUSINESS PLAN

N/A

ALTERNATIVES

N/A

ATTACHMENTS

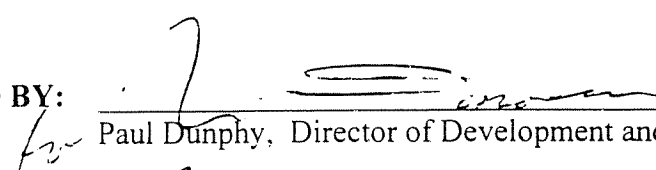
September 4, 2002 Information Report re Review of C-2 (General Business) Zone in District 12

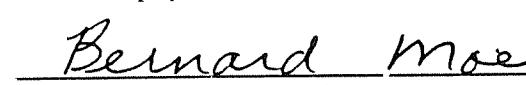
Additional copies of this report and information on its status can be obtained by contacting the office of the Municipal Clerk at 490-4210, or Fax 490-4208. Report prepared by: Sherryll Murphy, AMC, 490-6517.

Peninsula Community Council
September 09, 2002

TO: Members of the Peninsula Community Council

SUBMITTED BY:


Paul Dunphy, Director of Development and Development Services


Bernard Moe, Planner II

DATE: September 4, 2002

SUBJECT: Case 00440: Review of C-2 (General Business) Zone in District 12, in relation to Auto Body Repair and/or Paint Shops.

INFORMATION REPORT

ORIGIN

Request by Councillor Sloane (District 12) at the Peninsula Community Council Meeting - January 14, 2002.

DISCUSSION

Councilor Sloane requested that staff examine the possibility of amending the C-2 (General Business) Zone in District 12, in relation to auto body repair and/or paint shops¹. Staff has examined existing auto body shops in this area and in relation to current land use policies and regulations.

This examination was conducted under the context of current land use policy provided in the Peninsula North Secondary Planning Strategy, being Section XI of the Halifax Municipal Planning Strategy (MPS). The Peninsula North Planning Area is shown on the attached Map 1, and includes parts of Districts 11, 12 and 14.

¹ The term "auto body shop" is used throughout this report in reference to both auto body repair and auto body painting

Existing Situation

A survey identified 12 active auto body shops within the Peninsula North Plan Area. The existing operations are identified on Map 1. Eight of these active shops are concentrated in an area bounded by Robie, Cunard, North and Creighton Streets.

The existing operations are all zoned C-2 (General Business) under the Halifax Peninsula Land Use Bylaw and designated Major Commercial in the Halifax MPS (Peninsula North Secondary Planning Strategy). This zone and designation permits a broad range of commercial uses, including auto body shops.

The areas zoned C-2 are often located near areas zoned R-2 (General Residential), which comprise one and two unit dwelling developments. This mixture of uses is a long standing feature in the Peninsula North area. Almost all of these shops have been operation more than 10 years and some for as many as 40 years. In some cases, properties were used for other businesses for a time and later reverted to auto body shops.

Issue

Based on discussions with the Councillor, at issue is whether or not auto body shops are in conflict with residential uses and whether steps should be taken to eliminate this conflict. The question posed is; "Do potential negative impacts of auto body repair and paint shops (related to noise, dust, fumes or appearance) on nearby residential areas outweigh the benefits of business opportunity, employment and convenient service provided by these shops?"

Peninsula North Secondary Planning Strategy (Section XI of the Halifax MPS)

This issue was examined in the municipal plan review for the Peninsula North area in the 1990's. It was decided at that time to permit a wide range of commercial activities, including auto body shops, near residential areas, by establishing a Major Commercial designation and the C-2 zone in the secondary planning strategy.

In other areas of the former City of Halifax, where commercial development exists within a residential community setting, a different approach was used. In Fairview, Herring Cove Road, parts of the Bedford Highway and Quinpool Road, these existing C-2 areas were often designated Minor Commercial in the MPS and zoned C-2A (Minor Commercial) or an equivalent, which is more restrictive. The C-2A Zone does not permit auto body repair and paint shops. In some cases, this resulted in existing C-2 uses being made non-conforming. Although a non-conforming status does not require of a particular land use to cease operating, it imposes significant restriction on its abilities to expand, which often result in re-location of such enterprises to areas having less restriction.

Amendments to the current MPS would be required in order to change the zoning, create a C-2A Zone or restrict uses in the current C-2 zone. The main policy for areas designated Major Commercial is that they "service a market area comprising most or all of the City" (See Attachment 1). Auto body shops are consistent with this policy and there is nothing in the MPS which precludes auto body shops from being permitted in this designation. Given the lack of any specific direction in the MPS policy, any change in the C-2 zone to restrict auto body shops should include a statement to this effect in the MPS. This MPS amendment process would provide for a full consideration and public involvement on any changes of direction in the MPS.

Possible Options and Implications

There are several possible courses of action and implications are as follows:

1. Make no changes to the C-2 (General Business) zone and MPS, but amend other regulations pertaining to noise and nuisance to address negative aspects. Such regulations might include further enforcement by the Municipality of the Dangerous and Unsightly Premises section of the Municipal Government Act (Part 15) and/or requesting additional provincial controls over air emissions from auto body shops. This approach would enable all existing operations to remain in existence and permit their expansion, subject to existing requirements.
2. Create a Minor Commercial designation in the MPS and rezone existing auto body shops to C-2A (Minor Commercial). This would render existing auto body shops non-conforming uses (See Attachment 2 - Section 59FB). Existing operations would be permitted to continue but not permitted expand. Should an operation be closed for more than six months, it could not reopen.

There is provision in the Halifax MPS for non-conforming uses to change or expand through a development agreement (See Attachment 3). However, the policy requires such changes or expansions to result in a less intensive use. This provision would most likely be ineffective in the case expansions to auto body shops.

This approach represents spot rezoning, where only single properties are affected. In other areas of the former City of Halifax, the C-2A zone was applied over general areas rather than to single properties. In the Peninsula North area, if the R-2A zone was applied beyond the auto body shop sites, it would restrict other businesses as well. This C-2A zone would limit the range of uses permitted, compared to the existing C-2 zone, and this could potentially be a factor in the sale of a property.

3. Remove the auto body shops as a permitted use in the C-2 zone and amend the Halifax MPS policy to provide for this. This would be consistent with some parts of HRM where auto body shop are only permitted in areas zoned industrial. As with Option 2, the existing auto body shops would remain as non-conforming uses and no expansion or new shops would be permitted. Expansion of an existing auto body shop or change to a less intensive use through a development agreement could be considered. Unless it was specifically limited to the Peninsula North Plan area, this would affect auto body shops in all C-2 zones in Halifax Peninsula. The wide range of permitted uses in the C-2 zone could potentially be a factor in the sale of the land.
4. Impose additional restrictions on the auto body shops in the Land Use Bylaw for the C-2 zone and amend the Halifax MPS policy to provide for this. An example of such a restriction would be a requirement for a auto body shops to have a minimum separation distance from residential properties. The auto body shops would continue as a permitted use and could be expanded provided the new restrictions were adhered to. Existing shops which are not capable of meeting the minimum separation would become non-conforming.
5. Permit existing auto body shops only in the C-2 zone and amend the Halifax MPS policy to provide for this. With this approach, existing shops could expand but no new shops would be permitted. Another possibility would be to allow new shops only by development agreement.

Conclusion

A number of possible amendment options to address expressed concerns regarding auto body shops in residential areas have been examined and are identified above. Existing auto body shops cannot be prohibited and forced to close or re-locate. Regardless of the approach used, MPS and Land Use Bylaw amendments would have no appreciable difference to the situation in the short term. However, any of the regulatory approaches identified above could be used as strategies over the longer term to address compatibility concerns. The use of one particular strategy over another depends in large part on the degree of vigour that Council wishes to use in terms of regulating auto body shops.

Approval from Regional Council is required to initiate the MPS review and amendment. If the Peninsula Community Council wishes to proceed using a particular approach, a report would proceed to Regional Council outlining the proposed MPS amendments and a justification for considering such a change, particularly any change in circumstances since the last plan was adopted. If Regional Council agrees, the MPS review and amendment process would proceed leading to adoption of changes by Regional Council. This would involve public input, analysis (including

further evaluation of the options presented in this report), changes to the Land Use Bylaw, and a public hearing.

The overall process would require a commitment of HRM staff time which would affect other priorities. Regional Council has instructed that the priority for the Planning and Development Department is to be on Regional Planning and Planning Applications (Development Agreements etc.) rather than Community Planning (Plan reviews). Therefore, a MPS review and amendment of this nature would be carried out as staff time permits or in place of another, competing priority.

BUDGET IMPLICATIONS

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN:

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating Reserves, as well as any relevant legislation.

ATTACHMENTS

- Attachment 1 - Halifax Municipal Planning Strategy- Excerpts
- Attachment 2 - Halifax Land Use Bylaw - Peninsula
C-2A (Minor Commercial) Zone - Excerpt
- Attachment 3 - Halifax Land Use Bylaw - Peninsula
C-2 (General Business) Zone - Excerpt
- Map 1- Auto Body Shops in Peninsula North Plan Area

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Bernard Moe, 490-4495

ATTACHMENT 1

HALIFAX MUNICIPAL PLANNING STRATEGY- EXCERPTS

SECTION XI

PENINSULA NORTH SECONDARY PLANNING STRATEGY

- 2.3 In areas designated major commercial, uses consistent with Section II, Policy 3.1.3 shall be permitted.

SECTION II

CITY-WIDE OBJECTIVES AND POLICIES

- 3.1.3 Major commercial centres should service a market area comprising most or all of the City. These centres may include major offices and hotels, in addition to uses suggested for minor commercial centres. The City should encourage parking facilities in these centres to serve several businesses in order to limit nuisance impact. The City's policy for major commercial centres in all other respects should be identical to Policy 3.1.2.
- 3.1.2 Minor commercial centres should service several neighbourhoods. They should locate along principal streets with adequate provision for pedestrian, transit, service and private automobile access. Parking provision should be allowed on surface lots servicing single businesses, as long as conditions preclude nuisance impact on adjacent residential areas. Access to any parking area from the principal street should be controlled. The City should define the geographic limits of minor commercial centres, and shall encourage contiguity of commercial or associated uses within those limits. Minor commercial centres should offer a wider range of services than neighbourhood shopping facilities including local office, restaurants, cinemas, health centres and multi-service centres. Notwithstanding any other policy in the Municipal Planning Strategy or Secondary Planning Strategies, billboards advertising off-site goods and services shall be prohibited in Minor Commercial areas. This policy shall serve as a guideline in rezoning decisions in accordance with Implementation Policies 3.1 and 3.2 as appropriate.

IMPLEMENTATION POLICIES - NON CONFORMING USES

3.14 Council may, by development agreement, permit a non-conforming use to be changed to another less intensive non-conforming use, or permit the structure in which such a use is located to be altered or expanded, provided that:

- a) the layout and design of the property shall be complementary to the fabric of the neighbourhood, and this shall be achieved through attention to a variety of factors including, but not limited to, the following, on which Council shall specify conditions to be met in the development agreement:
 - i) architectural design;
 - ii) the size, location, and landscaping of courts, open spaces, and yards;
 - iii) location of primary and secondary entrances to the building; and
 - iv) size, location, and design of fences.
- b) vehicular activity, particularly parking and loading, shall be controlled so as not adversely to affect the neighbourhood in terms of traffic flow and nuisance;
- c) facilities for parking, loading, vehicular access, outdoor display, and outdoor storage shall be designed to avoid any adverse effects on adjacent properties and to ameliorate existing problems, through attention to factors including but not limited to:
 - i) location;
 - ii) surface treatment;
 - iii) storm drainage;
 - iv) access from the street; and
 - v) screening, buffering, and landscaping.
- d) except where specific benefits to the neighbourhood can be demonstrated, all additions to a building, all off-street parking and loading areas, and all outdoor display and storage areas shall be set back from the street line by the more restrictive of:
 - i) the minimum setback of the existing building; or

- ii) the mean setback of the buildings on the adjacent properties on either side; or
 - iii) the minimum setback specified for the zone in which the use is located.
- e) except where specific benefits to the neighbourhood can be demonstrated, additions to the structures on the property shall not:
 - i) further encroach upon the minimum side and rear yards stipulated for the zone in which the property is located; or
 - ii) result in the total lot coverage or building height exceeding the maximum stipulated for the zone in which the property is located;
- f) any outdoor lighting or sign illumination shall be directed away from, or screened from, adjacent residential properties;
- g) no bulk refuse containers shall be visible from the street or from the immediate neighbourhood;
- h) no additional lot area shall be used for outdoor storage, and measures shall be taken to screen any outdoor storage areas from the street and immediate neighbourhood;
- I) with regard to on-site advertising for commercial or industrial uses:
 - i) where the property is located in a residential zone, no additional advertising surface area or illuminated signage shall be added; and
 - ii) in all other cases, such advertising shall not exceed the limits prescribed for the zone in which the property is located.
- j) in the case of commercial and industrial operations in residential zones, the following additional considerations shall also apply:
 - i) there shall be a demonstrable improvement to the neighbourhood;

- ii) existing conditions resulting in noise, dust, vibration, odour, and emissions shall be required to be ameliorated where these cause a nuisance or hazard; and
 - iii) operating hours shall be restricted to prevent nuisance.
- k) No subdivision of the lot shall have occurred subsequent to the time of the adoption of this section.

ATTACHMENT 2

HALIFAX LAND USE BYLAW - PENINSULA C-2A (MINOR COMMERCIAL) ZONE - EXCERPT

59A(1) The following uses shall be permitted in any C-2A Zone:

- (a) all R-1, R-2, R-2T and C-1 uses;
- (b) stores for the purpose of retail trade and rental excluding:
 - (i) motor vehicle dealers;
 - (ii) motor vehicle repair shops which such shops are not primarily engaged in providing service station facilities; and
 - (iii) adult entertainment uses
- (c) radio, television and electrical appliance repair shops;
- (d) watch and jewellery repair shops;
- (e) a store for the purpose of personal service including shoe repair shops, barber and beauty shops, dry cleaners, funeral services, and excepting massage parlours and adult entertainment uses and amusement centres;
- (f) bowling alley;
- (g) a motion picture theatre;
- (h) a service station;
- (i) offices;
- (j) a bank and other financial institutions;
- (k) a restaurant;
- (l) community facilities;

- (la) billboards not to exceed twenty-eight square meters (28m²) in area and not to extend more than eight meters (8m) above the mean grade on which it is situated provided that no billboard shall be erected in the **Peninsula North Area**;
- (lb) commercial recreation uses;
- (lc) child care centre;
- (m) any use accessory to any of the foregoing uses.

MOTOR VEHICLE REPAIR SHOPS

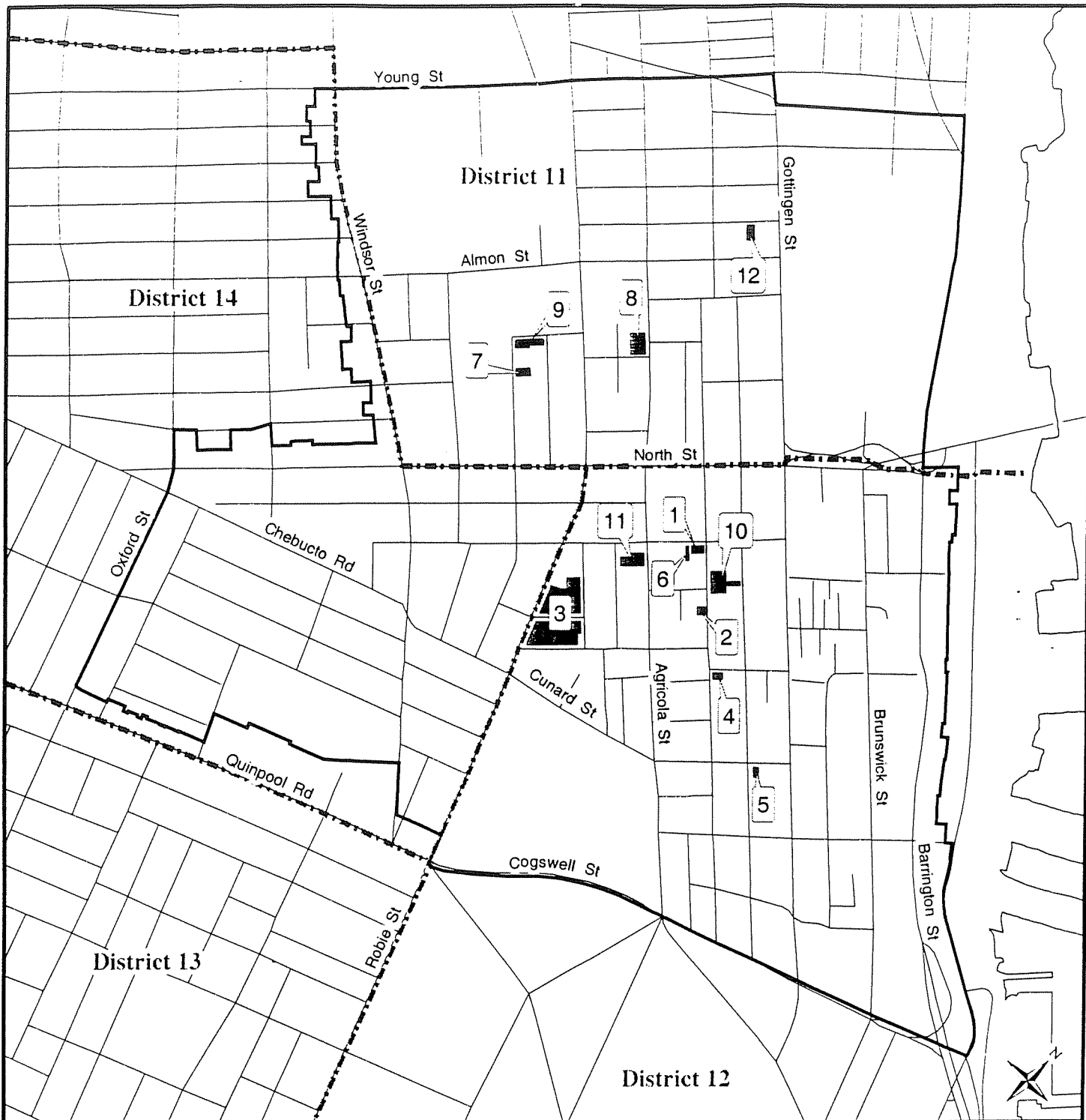
59FB Notwithstanding Section 59A(1)(b)(ii), motor vehicle repair shops, **excluding those which service or repair motor vehicles in excess of 6000 pounds or auto body shops or auto paint shops, may be permitted provided that:**

- (a) They are located on a site which has a valid occupancy permit for a service station or the most recent valid occupancy permit is for a service station.
- (b) An opaque fence having a minimum height of five feet is constructed abutting any residential zone.
- (c) Lighting facilities, if provided, are directed away from any abutting residential zone.
- (d) Any commercial refuse contained is enclosed in a structure which screens it from the street and abutting residential zones.
- (e) There is no outdoor storage of inoperative motor vehicles, boxes, crates or any other materials.
- (f) There is landscaped open space; raised or otherwise protected, having a minimum width of six feet along that part of the street line not required for the curb cut or pedestrian entrance.

ATTACHMENT 3

HALIFAX LAND USE BYLAW- PENINSULA C-2 (GENERAL BUSINESS) ZONE - EXCERPT

- 56(1) The following uses shall be permitted in any C-2 Zone:
- (a) R-1, R-2, R-2T, R-2A, R-3, C-1 and C-2A uses;
 - (b) Any business or commercial enterprise except when the operation of the same would cause a nuisance or a hazard to the public and except adult entertainment uses, junk yards and amusement centres;
 - (c) Billboards not to exceed twenty-eight square meters (28 m²) in area and not to extend more than eight meters (8 m) above the mean grade on which it is situated.
 - (d) Uses accessory to any of the foregoing uses.



Map 1 - Location

Autobody Shops Peninsula North Halifax

- Secondary plan area boundary
- Polling district boundary

Halifax Peninsula By-Law Area
Peninsula North Secondary Plan Area

Autobody shop

- 1 ARIS & B Auto Service - 5660 Charles St.
- 2 Carworks Autobody - 2448 Maynard St.
- 3 O'Regan's Collision Centre - 2477 Robie St.
- 4 Master Auto Repairs Ltd. - 2383 Maynard St.
- 5 Sparta Auto Body - 5540 Cunard St.
- 6 TNJ Auto Services - 5664 Charles St.
- 7 Halifax Welders - 2691 Clifton St.
- 8 Taylor Collision - 2710 Agricola St.
- 9 Wolf Collision - 6046 St Albans St.
- 10 Auto Lab - 2645 Maynard St.
- 11 Campbell's Autobody - 2500 Agricola St. (awaiting approval)
- 12 Bones Body & Fender - 5330 Bilby St.

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES



HRM does not guarantee the
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