

## VII. LAND USE SUBCOMMITTEE AND GENERAL RECOMMENDATIONS

### A. Erosion Control

#### 1. Recommendation

- a. The Town should adopt a soil erosion and sedimentation control local law to protect the quality of our surface waters. These requirements should require implementation of erosion control measures when the area disturbed is as little as 800 square feet within ¼ mile of the lake shore or adjacent to surface streams. These regulations should provide for filing periodic inspection of erosion control measures with the town, as well as providing surety to the town both for the erosion control measures and the maintenance of them throughout the construction cycle.
- b. The town should review its standards for lot coverage in the near lakeshore area, and provide incentives for providing on site detention, retention, and recharge of ground aquifers, and discourage direct discharge into the lakes or adjacent streams. These standards should apply not only to new construction, but any time a building permit, special use permit, or site plan approval is necessary—especially for a major rebuild or expansion.

#### 2. Issue generation

- a. Soil erosion is a prime source of nutrient load, especially phosphorous and nitrates, into surface waters. The relatively long retention time of water within both Keuka and Seneca Lakes means that nutrient loads discharged into surface waters are retained for a relatively long time in the these two finger lakes, and are thus available to fuel nuisance aquatic plant growth, such as both algal blooms and rooted aquatics). While the New York State DEC has regulations in place that contain standards for discharging stormwater from construction sites, those regulations have several shortcomings: they only apply where more than 1 acre is disturbed, they include no oversight of inspection unless complaints are made directly to DEC, they do not include any requirement for posting surety guarantees to insure required erosion control measures are put in place.
- b. Stormwater from asphalt roofs and paved areas contribute petroleum contamination to the lakes. Stormwater from all paved surfaces increases surface water flow to the lakes. This increases flood levels in the lake, increases erosion, and provides a conduit for surface applied fertilizers to flow into the lakes from remaining lawn areas.

#### 3. Reasoning

- a. On site detention and retention systems can reduce storm water flow, reduce erosion, and provide for improvement of the quality of stormwater discharges into lakes.
- b. Sand filters and the use of pervious surfaces for paving provide for a reduction in stormwater from developed sites and improve the quality of stormwater discharge.
- c. The cost of implementation of various detention, retention, and water quality treatment improvements are rightly borne by the development on site.
- d. The town can require erosion control measures be put in place for much smaller areas than 1 acre. This is appropriate for areas in close proximity to streams and

to the lakeshore, as these areas directly discharge into the lakes and pose the highest risk for affecting water quality.

B. Excavation and Top Soil Removal

1. Recommendations

- a. The Town should revise and update its existing local law, Town Code chapter 140-31(1) (2), relating to the extraction of stone, sand, and gravel. Changes in regard to ongoing inspection, the posting of security instruments to ensure compliance with required improvements and other conditions, including reclamation plans, and the removal of abandoned equipment, are obvious areas that need to be addressed. Consideration should be given to placing reasonable requirements on existing operators as well as for new operations.
- b. The town should consider prohibiting new surface excavation operations in areas where scenic views and vistas have been identified.

2. Issue Generation

- a. There are several small-scale excavation pits located within the town that appear to require reclamation and proper screening from adjacent properties.
- b. The existing town regulation does not address ongoing inspection, removal of derelict equipment, nor any surety be filed with the town to ensure compliance with approval requirements nor that reclamation activities occur even if the operator become insolvent.

3. Reasoning

- a. Tourism is an increasingly important source of income for the town and the region. Derelict and new operations that are visible from identified scenic areas of the town detract from the regions natural beauty upon which tourism depends. Reasonable regulation of surface extraction operations is important to balance the rights of private landowners with the regional needs of the tourism industry.

C. Property maintenance

1. Recommendation

- a. The town should enforce the property maintenance provisions of the current New York State Uniform Fire Prevention and Building Code.

2. Issue Generation

- a. Residents have expressed a concern over the number of eyesore properties that exist within the town.
- b. The photo inventory of the town identified several properties that are overburdened with trash and debris. Not only are these properties aesthetically displeasing, but also provide breeding grounds for vermin and mosquitoes. These are well known disease vectors, and pose an unacceptable public health risk for everything from rabies to West Nile or eastern equine encephalitis.

3. Reasoning

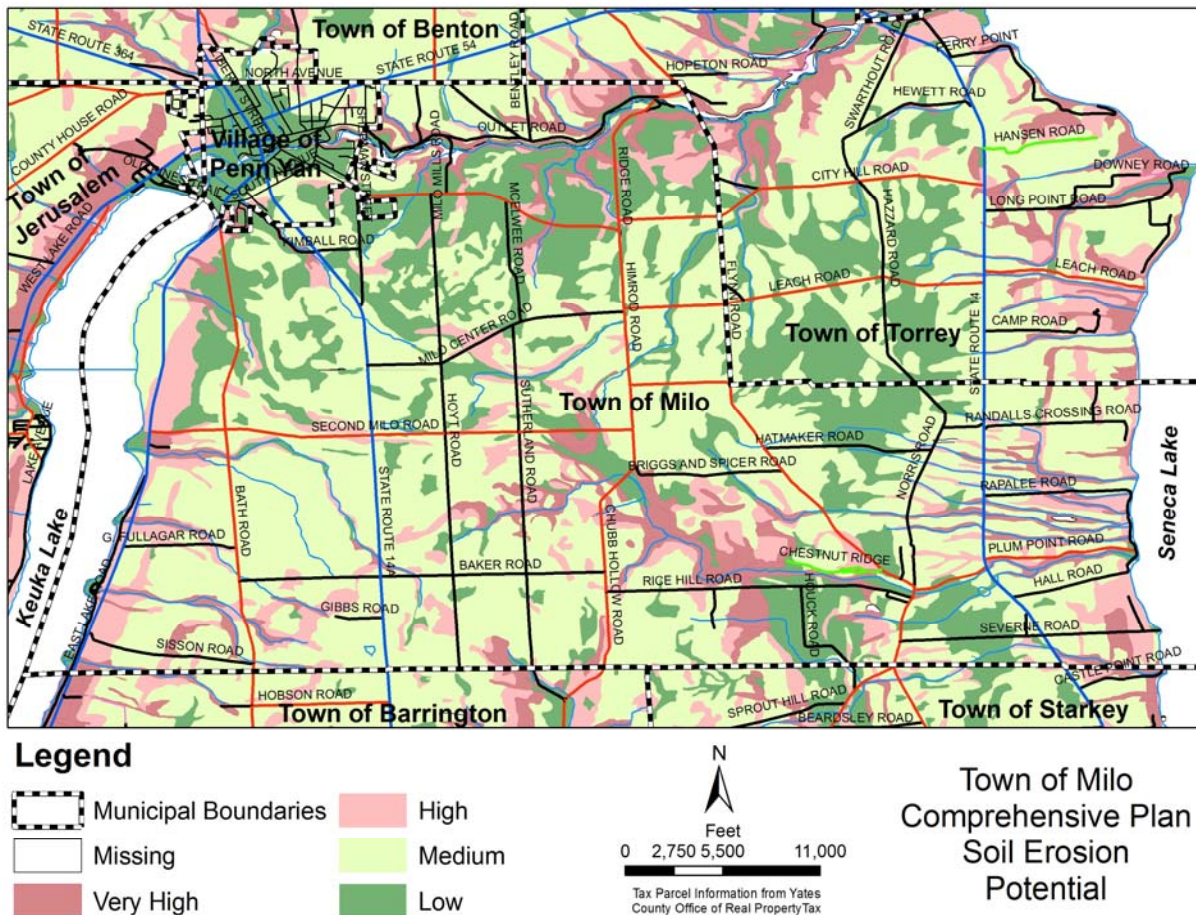
- a. The property owners of such eyesore properties should be required to clean them up.
- b. Provisions exist within the existing New York State Uniform Fire Prevention and Building Code giving the town sufficient authority to require remediation of such properties.

D. Outdoor lighting

1. Recommendations

- a. The town should implement a standard for outdoor lighting that is sufficient for security and minimizes light spillage onto adjacent properties, public and private roads, and to the sky. This standard should apply to all land uses, especially those in close proximity to or within the higher density residential areas of the town. A reasonable standard should be developed especially for the higher density areas of the town, such as the lakeshore and hamlet areas.
  - b. Consideration of light fixture placement, fixture design, and spillage on adjacent property should be part of every site plan review for energy efficiency, the character of residential neighborhoods, and the safety of drivers.
2. Issue Generation
- a. Residents have sighted concerns about light pollution, specifically:
    - 1.) The waste of energy that occurs with fixtures that do not focus light toward the ground.
    - 2.) Spillage of light from residences and commercial operations onto adjacent residential property.
    - 3.) Outdoor light fixtures creating glare and distractions for vehicular traffic.
3. Reasoning
- a. An outdoor lighting standard is necessary to create a mechanism for addressing issues created by light fixture installations that are exempt from building, site plan, or other local permit issuance.
  - b. For large developments
- E. Regulation of Development and activities on Steep Slopes and in proximity to streams draining directly to and areas within 500 feet of Seneca or Keuka Lakes (joint with Lakefront Committee)
1. Recommendation: The Town should establish a Steep Slope Overlay District to establish special density, erosion control, and stormwater management requirements for uses in this district.
- a. The Town should require site plan review, including submission of an erosion control plan for non-agricultural disturbance of ground cover of as little as 800 square feet in these areas.
  - b. The Town should require treatment of stormwater runoff from impervious surfaces prior to discharge from the site.
  - c. There are model ordinance examples, and examples from other municipalities to use as a guide for writing the overlay district requirements. One example would be from the Town of Irondequoit (which may be found with the Committee's materials on file at the Town Hall).
2. Issue Generation
- a. The Lakefront and Land Use Subcommittees recognize that development in areas that drain directly into Keuka and Seneca Lake, and areas of steep slopes, have the greatest potential to impact lake water quality.
  - b. Existing state regulations, specifically State Pollution Discharge Elimination Permits for stormwater discharge from construction sites, are only required when construction activities will disturb 1 or more acres of land.
  - c. A significant amount of erosion resulting in a negative impact on lake water quality can occur from sites where less than an acre of land is disturbed.

- d. Existing engineering practices stress positive drainage from residential construction, meaning that water is generally discharged from sites as soon as possible.
- e. Only large-scale residential development is required at the present time to mitigate storm water discharge rates (the NY State Stormwater Phase II regulations require the rate of discharge to be equal to or less after development than prior to development).
- f. Existing NYS Stormwater Phase II regulations allow degradation in water quality after development as compared to the pre development condition.
- g. The soils on the slopes overlooking Keuka and Seneca Lakes have a high erosion potential, as shown in the following map:



**MAP 23:** Soil Erosion Potential, USDA, Natural Resource Conservation Service

### 3. Reasoning

- a. Development on 12 to 15% slope is recognized generally by Land Use Planners, Environmental Engineers, Environmental Scientists, and Landscape Architects as requiring special consideration to limit erosion.
- b. Transportation Engineers do not recommend roads be constructed at grades over 11%.
- c. A significant amount of land overlooking both Seneca and Keuka Lakes possess slopes over 12%.

- d. Erosion control measures are not difficult to design, and significant local resources are available through the Yates County Soil and Water Conservation District to assist landowners, developers, contractors, and the town in designing and implementing reasonable erosion control techniques.
- e. Where practical, individual lots should be required to meet the same rate and quality discharge standards as large subdivision development must meet. It is inherently unfair to make large developers meet a different standard than individual lot developers, especially given that the cumulative impact of individual lot development with no erosion control far outweighs that from the few large developments in the town.
- f. There are practical on-site storage (detention) and water quality treatment option (such as sand filters) that are appropriate for mitigating individual lot runoff.
- g. Direct discharge from roofs, driveways, and other impervious surfaces into Keuka or Seneca Lakes, or directly into their tributaries should not be allowed without adequate rate and quality control. Without rate and quality treatment of stormwater:
  - 1.) Direct discharge into the lake conveys petrochemical, fertilizer, herbicide, and pesticides directly into the lake.
  - 2.) Direct discharge into tributaries in addition to the issues cited in 1.) above, increases peak flows and leads to additional erosion of the tributary channel further impacting water quality.
- h. Site Plan review of development by the Planning Board prior to construction will:
  - 1.) Establish a requirement for erosion control and stormwater treatment.
  - 2.) Provide the town with an opportunity to work with applicants to establish reasonable stormwater and erosion control measures.
  - 3.) Provide the town with an enforcement mechanism through site inspection by the code enforcement officer.

#### F. Regulation of Signs

- 1. Recommendation: The Town needs to adopt a comprehensive new sign regulation within its zoning local law to standardize the location, appearance, and type of signage allowed in the Town.
  - a. The new regulation should also address the removal of disused, outmoded, and non-conforming signs. A reasonable amount of time should be established before mandatory removal of signs made non-conforming by the new zoning law, in order to allow amortization of the sign owner's investment.
  - b. Standards for size, location, and appearance of business signs should be established based upon local speed limits.
  - c. Interior illuminated signs should be either forbidden or the intensity of the lighting strictly regulated.
  - d. Flashing, moving, and otherwise distracting signs should be prohibited, as they can become a distraction for drivers and thus a safety issue.
  - e. The town should establish rules for temporary signs, including those for occasional events such as garage sales, special business events, etc. This is not the same as requiring a permit for such signs. Such temporary signs should be allowed a specified length of time to be displayed during the calendar year. This will allow the town to require removal of non-conforming signage.

- f. Rules must be established for if and under what circumstances off premises business signs will be allowed.
- g. The town should consider creation of unified business district, resort, or winery area signage on main roads to direct tourists and other interested customers to the areas where businesses are clustered.

2. Issue Development

- a. The Photo inventory of the Town revealed:
  - 1.) Off premises business signs, especially for businesses located outside of the Town of Milo, are prevalent within the Town. In fact, off premises signs that are prohibited in adjacent towns are apparently purposefully located in the Town of Milo because of their lack of prohibitions.
  - 2.) The location, size, and appearance of signage on State Rt 14A do not conform to the recommendations in the Route 14A Corridor Study published by Yates County.
  - 3.) Many disused signs remain up long after the use they are advertising. This is true both of signs advertising temporary events, and true for businesses that are either seasonal or no longer exist.
  - 4.) Many businesses within and adjacent to the town use temporary plastic (often plastic corrugated) signs to excess within the town—to the point that they become almost permanent—and attach them to many sign posts and utility poles throughout town.
- b. Reasonable accommodation for business signage must be made to ensure the economic health of businesses.
- c. The character of a community is heavily impacted by the type and number of signs, especially along its main thoroughfares—State Rt 14 and State Rt 14A.

3. Reasoning

- a. A coordinated, standardized appearance of signs can
  - 1.) Help establish the character of the Town.
  - 2.) Will level the playing field between competing businesses.
- b. Federal law has long established the right of local municipalities to require removal of non-conforming signs as long as a reasonable period of time is allowed for the owner to amortize their investment in the sign.
- c. The proliferation of off premises business signs, including the use of multiple plastic business signs, is counter productive in that there are so many of them that motorists can't pick out the one they are looking for.
- d. Unified area signage (resort, business area, winery area) signage will be much clearer for tourists and other interested parties, and all businesses will benefit.
- e. There are many model sign regulations, including one from the American Planning Association and from the Town of Irondequoit that can be used to draft adequate sign regulations for inclusion in the zoning local law. These are on file with the committee materials at Town Hall.

G. Townhouses and Multi-Family Dwellings (joint with Lakefront Committee)

- 1. Recommendation: Townhouses, apartments, and similar multifamily dwellings should not generally be allowed within the Town.
  - a. Adequate provision must be made for the conversion of existing, large housing to be converted into multifamily use (apartments) where on-site water and waste-water

disposal systems are adequate to support the use. Such conversions can preserve existing large residences that may otherwise be cost prohibitive for single occupancy.

2. Issue Generation

- a. Townhouses, apartments, and multifamily dwellings are high-density residential uses that require sewer and water service.
- b. The character of the majority of the Town of Milo is rural.
- c. Townhouses, apartments, and multifamily dwellings would create too high a density in the lake front area.
- d. Views of the lake are important to residents, tourists, and local businesses. They are accommodated by the current density of development. The construction of townhouse buildings and apartments would invariably cut down on the views through lakefront or near lakefront properties substantially affecting lake views.

3. Reasoning

- a. Adequate provision of multi-family housing exists within the Village of Penn Yan to meet the need of local residents where public utilities are available.
- b. The character of the Town's lakefront area is strictly single family residential, including both permanent and seasonal residences. Multifamily dwellings and townhouses do not fit the character of the lakefront area.
- c. Townhouses and apartment buildings tend to be much larger than standard single-family detached dwellings. Their construction on or near the lakefront would be a detriment to residences, tourists, and businesses (especially those that depend on tourists), as they would negatively impact views of the lake.
- d. The Town contains a wide range of housing types and costs, as noted in the study of assessed valuations and rents.
- e. The Town, outside of the village, has a high vacancy rate for rental units. There does not appear to be an additional need for rental units within the town.

H. Registration of Rental Properties (joint with Lakefront Committee)

1. Recommendation: The Town should adopt a local law (outside and separate from zoning) regarding residential rental property to:
  - a. Require owners of residential rental property to register their contact information with the town. This will provide the town with verified contact information to resolve any issue that may develop with the rental property.
  - b. Provide the Town with a method to revoke the right to rent where property condition, behavior of tenants, violation of town laws and/or ordinances, and/or violation of state codes exist for an unreasonable period of time.
  - c. Provide landowners with rental property copies of important local laws, such as noise ordinances, that the town may require to be posted or provided to renters.
  - d. Require the landowner to provide all renters with the town recognized street address for the property that agrees with local 9-1-1 records.
  - e. Require landowners of rental property to display properly sized and located house numbers on the rental property, including any unit numbers to provide better field identification for emergency service providers (police, fire, and emergency medical services).

## 2. Issue Generation

- a. Rental properties, including multifamily dwellings and apartments, are investment properties often with absentee landowners. This can result in less than desirable maintenance of rental property to the detriment of the surrounding neighborhood.
- b. Municipalities often have difficulty in locating absentee landowners to address pressing issues concerning violations of town and state laws.
- c. The Town can only regulate the physical characteristics of construction, and not whether an owner chooses to offer residential property for lease or live there as owner.
- d. The Town can take steps to ensure that lessors act in a responsible manner and adhere to all the applicable laws of the state and the town.
- e. Short-term renters are more prone to having emergencies, especially on the lakefront, and are not familiar with their address or their surroundings.

## 3. Reasoning

- a. Requiring registration of rental property is an easy method to establish a database of contact information. This will aid the town if and when owners of rental property need to be contacted concerning the condition of their property or the behavior of their tenants in regard to state and town law requirements.
- b. The registration process will afford the town with an opportunity to personally explain any applicable local laws or ordinances, such as noise ordinances, to the landowner. The town may choose to require that copies of certain local laws or ordinances, such as a noise ordinance, be provided to all renters. Alternatively, the Town may require posting of significant points, such as quiet hours, and permitted noise levels, in the rental unit.
- c. Requiring posting of recognized house numbers, unit numbers, and of informing renters of the rental property's proper address, will ensure timely delivery of emergency services, especially where short term rentals are involved.
- d. These measures are intended to improve the health, safety, and general welfare of the public.