

# **Town of Peru Open Space Plan Draft (v1) September 2008**



## Introduction

The Open Space Plan sets forth a more detailed plan of action to identify and protect the Town's natural resources and other special environmental features. The Town of Peru Comprehensive Plan (adopted in 2004) establishes the full set of vision, goals, and tools Peru should implement to meet community goals. This plan builds on and extends the analysis of the Comprehensive Plan. The purpose of this Plan is to identify, evaluate, and prioritize resources, establish preservation goals, and guide the implementation of an open space program. The Plan identifies parcels with significant resource value and open space potential, and offers a 'preservation toolbox' for the town to follow over the next five to ten years. Implementation of the Open Space Plan will achieve previously recommended preservation goals set forth in the Town's Comprehensive Plan.

'Open Space' is defined generally as natural and human-influenced landscapes that remain relatively undisturbed. Open space may consist of several land categories, ranging from pristine preserves of high ecological significance to active recreational trails. The benefits of preserving open space are well known. By preserving resources within the framework of parks, greenways, and other preserved land, an interconnected system of open space can be established.



The Town's consultants conducted an open space, ecological, and scenic viewshed assessment to develop an inventory and database of significant open space resources. Much analysis, including a build out analysis, was conducted within the comprehensive plan process and are referred, but not repeated in this plan. This plan includes a prioritization of open space parcels, including agricultural lands, so that the Town can focus its efforts in open space preservation. This analysis will help determine preservation priorities.

The Plan was developed with comments from an *ad hoc* technical advisory committee charged with development of this plan and updating local land use regulations to be consistent with the comprehensive plan and from a citizen-input process. A community workshop was held to identify important open spaces.

The maps included in this Open Space Plan illustrates the existing and potential open space network in Peru. Within the system are approximately 31,732 acres of woodland, 8,151 acres of farm field or orchards land, and 4,857 acres of land within a stream corridor. All could provide one or more open space functions.

Included in this Plan are a series of Implementation Recommendations that describe specific actions the Town of Peru should take to protect its natural and working landscape resources.

The table lists tasks and responsibilities by department and priority time frame. To support future open space work, a model conservation easement, model right-to-farm law, and a project development review checklist is included. Finally, a specific set of zoning changes are recommended and included.

### **Definition of Open Space<sup>1</sup>.**

Generally speaking, open space is land that is not intensively developed for residential, commercial, industrial, or institutional use. It serves many purposes, whether it is publicly or privately owned. It includes agricultural and forest land, undeveloped shorelines, undeveloped scenic lands, public parks, and preserves. It also includes water bodies such as lakes.

Open Space is forests, meadows, fields, wetlands, floodplains, stream corridors, historic landscapes, farmland, parks, greenways, and other areas that remain relatively undisturbed. Open Space may consist of several different types of land uses. Each category of open space has different methods that could be used to protect that resource.

### **Benefits of Open Space**



Open space in Peru provides many benefits to our community, direct and indirect, as well as short-term and long-term. Benefits include those related to social, environmental and economic topics. Interesting and diverse recreation areas, scenic open spaces, and working landscapes play an important role in the Town's character, quality of life, and attractive qualities. Peru has a diversity of different kinds of open spaces ranging from lake shores to mountains, and this contributes greatly to the desirability of Peru as a community. In addition, open spaces provide a place for recreation and maintenance of physical health as well as a place for personal revitalization.

Open spaces also play an important role in environmental and ecological protection. Wetlands filter and process polluted water and buffer developed areas from flooding. Forested areas remove carbon dioxide from the atmosphere, reduce noise, lower temperatures in the summer, and trap pollutants in the atmosphere. Undeveloped lands protect underground water supplies. All open spaces and related natural resources allow important biological functions and natural habitats to remain intact and ecologically healthy.

Parks, scenic landscapes, historic sites, lakes, streams, and mountains are central to the areas tourism and travel industry. The Town's agricultural areas contribute to the local, regional and state economy. Timber harvesting also plays an important role in our economy. Open lands in

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<sup>1</sup> Adapted from Local Open Space Planning Guide, 2004, New York State DEC and DOS publication.

Peru have been identified as being important components of the residential quality of life and are recognized in the Comprehensive Plan as being important in attracting and retaining economic investments.

There are several specific ways in which open space benefits the Town of Peru:

**Wildlife and Native Plant Habitat:** Open spaces provide habitat for native plants and animals that cannot live in urban and suburban environments. Peru has a diversity of habitats ranging from active farm fields and orchards, mature forests, wetlands, riparian zones along streams, shorelines, and lake/ponds. Large wooded tracts are particularly important to native species. An important goal is to link these areas within Peru.

**Water quality protection and flood prevention:** Wetlands and vegetated stream buffers along the many creeks in Peru (see box) retain flood waters, reduce the amount of pollutants entering streams, and help remove the pollutants that do get into the water. Ultimately, they are important in keeping Lake Champlain clean and healthy. These areas also provide valuable wildlife habitat and wildlife travel corridors. Groundwater supplies are replenished in places where water soaks into the soil and reenters aquifers.

Arnold Brook	Ausable River
Caldwell Brook	Dry Mill Brook
Furnace Brook	Little Ausable River
Salmon River	Silver Stream
Spaulding Brook	

**Agriculture and forestry:** Agriculture and forestry cannot remain financially viable without large open spaces in which they can be practiced. These landscapes are also an important part of the town’s cultural heritage.

**Recreation:** Hiking, biking, horseback riding, hunting, fishing, camping, snowmobiling and other motorized uses, and bird watching are recreational activities that require extensive open spaces and natural areas.



**Sense of place:** Many of the things that help define the Town’s character are associated with open space, including agriculture, historic structures, and scenic vistas. Open spaces also provide a respite from people’s busy lives by simply offering the aesthetic relief of areas devoid of human construction.

**Education:** We need functional open spaces so that we can learn about the ecological connections among people, wildlife, and the land.

**Air quality improvement:** Vegetation in open spaces absorbs carbon dioxide and pollutants from the atmosphere and provides shade, reducing air pollution levels and cooling the air.

## Relationship of Peru's Open Space Strategic Plan to Town's Comprehensive Plan

In the fall of 2002, the Peru Town Council began an initiative to develop a strategy for addressing a number of issues that had arisen in the past several years. The issues included the loss of open space and escalation of local population due to an influx of new housing starts in the form of planned subdivisions, questions as to where capital resources should be expended to improve town infrastructure and recreational facilities, and concerns of rapidly increasing commercial developments in and near Peru.

In 2006, a new Town of Peru Comprehensive Plan was adopted to address those and other issues facing the Town. The 2006 Plan illustrates the critical importance residents and landowners of Peru place on open spaces as follows:

87.5% of survey participants indicated that it was important to protect scenic views along roadways

78.5% indicated that it was important to require protection of some open space in all new residential subdivisions

73.2% indicated that it was important to encourage protection or expansion of lands for farms and orchards

67.3% indicated that it was important to develop an off-road trail system for walking/biking

60.2% said that it was important to protect undeveloped lands

59.5% said that it was important to increase access to Lake Champlain

50% said that it was important to identify and purchase future recreation sites.

A Community Image Survey was conducted as part of the 2006 Plan. The results of this effort indicated that Peru's scenic beauty, rural nature, open spaces, farms, hills and mountains, Lake Champlain, and other natural resources were features most important to the visual character of Peru. The following list includes those locations considered to be among the most visually important:



- Lake Champlain and Lake Shore
- Mother Cabrini Shrine)
- Union Road/River Road
- Open Farmland and Orchards
- Route 9 from Bear Swamp Road to Lake
- View from Reservoir
- All mountain roads
- Calkins Road
- Brand Hollow Road
- Jarius Road Heading South
- Lapham Mills Road

In 2007, the Town received a New York State Quality Communities Grant to begin implementing the Comprehensive Plan. That grant funded development of this open space plan as well as updates to the Town zoning, development of an outdoor wood boiler local law, a wind turbine local law, and an adult use local law.

### Updated Public Input: Identification of Important Open Spaces

To build on the public input already conducted (planning workshops, resident survey, public meetings, community image survey), this open space planning effort included a public workshop designed to involve the community in locating and identifying open spaces that are important to the community. This was augmented by a site-visit by the consultants to view each area described by the Community and identify other important areas. The results of this workshop are illustrated on the Workshop Summary Map and the table below.

<b>Description of Important Open Spaces Identified by Public</b>
Heyworth Mason Park area, public access to trail area and historic resource
Farmland
Ausable Point Marsh
Views of mountains from local roads
Views of Lake Champlain from local roads, especially along Route 9, Jabez Allen Road, Jarvis Road, Calkins/Clark Road, Patent Road, Signor Road, Davern Road, Mannix Road, Route 22 South to Brown Road
Ausable Point Campground
Woods along side of road (Bear Swamp)
Terry Mountain
Views of White Face Mountain
Little Ausable Park and pond
Macomb State Park
Lapham Mills Park and Sports Area
Valcour Island ( views and kayaking/camping/hiking
Mother Cabrini Shrine.
Peasleeville Valley for scenic views, forested areas, uplands and a greenway corridor
Peru Reservoir
Mount Etna
New state land for trail development, but needs access
Preserve Peru Rod and Gun club. Open natural area with forest

## Description of Consultant Site Visit Points of Interest

Map ID	Description
1	Ausable River - bridge
1a	Ausable Marsh
1b	NYS DEC Wildlife Management Area/Birding Trail
1c	Ausable Marsh
2	Peru Boat Launch
2a	Open field with long view facing NW
3	Lapham Mills Road
4	H. Mills Historic Site
5	Lapham Mills Recreation Park
4a	Creek crossing Maiden Lane
4b	Scenic location in front of school looking west to mountains
4c	Farmland, example
4d	Scenic - looking west on Brand and Rte 39 intersection
6	mix of orchards, corn, some hay - blocks of large parcels of farmland
7	mix of orchards, corn, some hay - blocks of large parcels of farmland
8	Macomb Reservation State Park
8a	Mother Cabrini Shrine and Church
9	Trail but no public access?
9a	Scenic View, along Paten Road
10	Town reservoir
10a	Scenic View
10b	Route 22B Scenic Corridor
11	Scenic Byway and bike route

# Inventory, Description, and Analysis of Open Space Elements

## General Description of Physical and Environmental Features

The physical and environmental features in the Town of Peru have been studied, analyzed and mapped, and full descriptions are contained within the 2006 Town of Peru Comprehensive Plan. The following maps, presented in Appendix G of the 2006 Plan, illustrate these features:

Topography	Watershed	Water Features	Flood Hazard Zone
Slope	Bedrock Geology	Surficial Geology	

Topography: Elevations range from 92 feet above sea level along Lake Champlain to 2,374 foot elevations in the mountainous area of town included in the Adirondack Park. The topographic map (Appendix G of the Comprehensive Plan) clearly illustrates the dramatic changes from the eastern half of town compared to the western portion. Two distinct areas of highest elevations are found within the Adirondack Park portion of the Town of Peru.

Watershed: Four distinct watersheds drain lands within the Town of Peru. These are the drainages of the Little Ausable River, the Lower Ausable River, the Salmon River, and the West Branch – Ausable River. Only the most southwestern portion of Peru is included in the West Branch – Ausable River watershed. The mountainous areas included in the Adirondack Park are part of the Salmon River watershed. The Little Ausable River watershed makes up the largest watershed in town. The public water supply for the hamlet of Peru is within the Little Ausable River watershed.

Water Features: Water features in Peru include Lake Champlain, various streams, and wetlands, including both State DEC and Adirondack Park Agency regulated ones. Many of the wetlands are associated with streams and creeks. A large wetland complex is found in the southeastern portion of the town along Lake Champlain, at the mouth of the Ausable River. Another large area is in the northeastern portion of the town. The lands contained within the Adirondack Park have numerous wetlands as well. All waters of the state are provided a class and standard designation based on existing or expected best usage of each water or waterway segment (See DEC Stream Classification Map).



- The classification AA or A is assigned to waters used as a source of drinking water.
- Classification B indicates a best usage for swimming and other contact recreation, but not for drinking water.
- Classification C is for waters supporting fisheries and suitable for non - contact activities.



- The lowest classification and standard is D.
- Waters with classifications A, B, and C may also have a standard of (T), indicating that it may support a trout population, or (TS), indicating that it may support trout spawning (TS). Special requirements apply to sustain these waters that support these valuable and sensitive fisheries resources.

Flood Hazard Areas: Most of the streams in Peru have 100 year designated flood hazard areas. The Federal Emergency Management Agency (FEMA) provides floodplain boundary maps. The mapped boundaries delineate the flood elevation that has a 1 percent chance (100-year zone) or 0.2 percent chance (500-year zone) of being equaled or exceeded each year. The Flood Insurance Rate maps identify areas within the town which are prone to flooding. The Town participates in the National Flood Insurance Program and is eligible for assistance from FEMA in the event of a flood and has adopted the flood plain regulations as set forth in the Flood Insurance Study for the town. Many of the NYS DEC regulated wetlands are also located in or adjacent to floodplain areas.

Steep Slopes: The topography of the town ranges from relatively flat (along Lake Champlain) to mountainous. Lands included in the Adirondack Park are predominated by slopes of greater than 15%. Topography is variable with slopes ranging from 10% to 45%. Almost all of the steep slope areas are within the Adirondack Park in the Town. Outside of this area, steep slopes are found mainly along streams and represent steep banks or narrow ravines.

Bedrock and Surficial Geology: Bedrock is the many-miles-thick crust of the earth. It is solid rock made up of many individual rock types. It is present everywhere, but is usually covered by other surficial deposits. Bedrock geology within the Town of Peru includes glacial and lake deposits, limestone, sandstone, and metamorphic rock formations. Along Lake Champlain, bedrock is made up primarily of glacial and lake deposits. Within the Adirondack Park portion of Peru, bedrock features are granite and gneiss. Potsdam sandstone is the bedrock formation most common in the rest of Peru. Limestone bedrock can be found on Valcour Island and along the shoreline of the northeastern portion of Town.

Surficial geology in Peru is quite variable. There are two distinct areas having exposed bedrock: these are found within the Adirondack Park boundary. The majority of surficial formations are till (variable textures from boulders to silt) or undifferentiated marine and lake sands. The surficial geology has been highly influenced by glacial activity and lake deposits over time from Lake Champlain.

## **Ecological Data**

### **Breeding Bird Atlas**

The Town of Peru was included in the 1980 to 1985 New York State Breeding Bird Atlas. The town is currently included in the update to this data base (2000 to 2005). To date, a total of 107 different bird species have been recorded as being present and likely breeders in the town.

Of these, three species are considered threatened species, three are listed as species of special concern by the state, 19 are game species, 79 have protected status as migratory birds, and three are unprotected. The species present in the town illustrate the wide variety of habitats available and range from water and shore birds, to those found in open fields and forests.

Species that are either threatened or of special concern include the Northern Harrier, Least Bittern, Upland Sandpiper (threatened) and American Bittern, Common Loon, and Coopers Hawk (Special Concern). The Least Bittern and American Bittern are birds of wet areas and would most likely be found in wetlands or along the shoreline of the lake. The Common Loon would be found on large lakes or on Lake Champlain. The other species are birds found in typically found in open, non-forested, and non-urban habitats.

New York State has developed special areas for bird conservation. They have developed a series of management objectives for specific areas of the State. One such Bird Conservation Area includes the Lake Champlain marshes. For these areas, including lands within the Town of Peru and adjacent Town of Ausable, bird species of interest include: American Bittern (special concern), Least Bittern (threatened), Osprey (special concern), Upland Sandpiper (threatened), Great Blue Heron, Green-backed Heron, Black Tern (endangered), Northern Harrier (threatened), Pied-billed Grebe (threatened), Short-eared Owl (endangered), Vesper Sparrow (special concern), Grasshopper Sparrow (special concern), Bobolink, Savannah Sparrow, Cliff Swallow, Common Snipe, Marsh Wren, Virginia Rail, Lincoln's Sparrow, Common Goldeneye, Black-crowned Night Heron, Winter Wren, Northern Waterthrush, Chestnut-sided Warbler, Nashville Warbler, Yellow-throated Vireo, and Warbling Vireo. They have identified open water, emergent marsh, forested flood plain, shrub wetlands, forested uplands, shrublands, and grasslands as critical habitats to support these species.



### Herpetological Atlas

As part of the New York State Department of Environmental Conservation's effort at a state-wide herpetological atlas (reptiles and amphibians), several species have been identified as being present in the Town of Peru. Twenty-two species have been identified to date. These species include:

- |                         |                        |                         |
|-------------------------|------------------------|-------------------------|
| Bullfrog                | Common Garter Snake    | Common Map Turtle       |
| Common Mudpuppy         | Common Snapping Turtle | American Toad           |
| Eastern Milk Snake      | Gray Treefrog          | Green Frog              |
| Mink Frog               | Northern Leopard Frog  | N. Redback salamander   |
| Northern Redbelly Snake | Spring Peeper          | N. Two-lined Salamander |
| Northern Water Snake    | Painted Turtle         | Pickerel Frog           |

Red-spotted Newt  
Wood Turtle

Spotted Salamander

Wood Frog

## New York State DEC Natural Heritage Data

The New York Natural Heritage Program is a partnership between NYS DEC and the Nature Conservancy. They promote conservation of rare animals, plants, and significant communities by combining field inventories, scientific analysis, expert interpretation, and a comprehensive database on New York's biodiversity. According to the most recent Natural Heritage database, a number of threatened, endangered species and significant ecological communities exist in Peru. The Ausable Delta is habitat to a number of critical species including vascular plants, freshwater mussels, and birds. The shorelines, sand/gravel bars, small brooks, marshy areas, floodplain forested habitat, and sand beach habitats make this location critically important to the ecology of the area. The Pitch Pine-heath barrens, fens, and deep emergent marshes are important communities within the delta/Ausable Marsh area.

Valcour Island and Garden Island are other locations in Peru with significant ecological resources for certain endangered and threatened species and unique habitats. The islands have shoreline and inland wet meadows, white cedar summits and swamps, and the lake shore itself are important habitats. According to the Natural Heritage data, some of the species and communities are considered imperiled, critically imperiled, or vulnerable in New York State.



Threats to these important resources include eutrophication of the lake, lack of fire in forested habitats dependent on fire for regeneration, habitat manipulation for waterfowl, exotic species, trampling by people, excessive erosion, and nesting disturbances. Trampling was considered the major potential threat.

Lands within the Macomb Reservation contain an intact Pitch-Pine/Oak forest, and several vascular plants that are considered threatened in NYS. Freshwater mussels can be found in several locations, including healthy populations in the Salmon River. The Burnt Hill State Forest also contains unique habitats including a bog.

## Specific Descriptions of Open Spaces in Peru

### Summary

Open spaces in Peru are quite varied depending on the location in Town. Three distinct areas are found: the eastern section (generally I-87 east to Lake Champlain), the central section (generally the APA Blue Line east to I-87), and the western section (lands within the Adirondack

Park). Each of these areas has distinct environments, open spaces, and characteristics. The eastern section contains lakeshore, wetland, stream/stream corridor woodland, and some agricultural open spaces interspersed with low density residential development. Lakeshore and stream/wetland open space resources dominate this area. The central section contains the core farmland areas of Peru. The landscape here is dominated by large tracts of active agricultural land mixed with residential development and the hamlet of Peru, and only fragments of woodland. The western section contains mountainous terrain having large, unbroken tracts of forests. Within the Adirondacks, numerous wetlands are included in the APA Critical Environmental Area. Residential density in the Adirondack portion of Peru is extremely low.

### Greenway Corridors

Although there are no officially designated greenway corridors in Peru, the streams and their associated vegetated stream corridors play a critical role in connecting the various habitats and sensitive environmental areas in Peru (See Stream and River Corridor Map). These corridors serve a vital ecological role to connect wetlands, woodlands, and the lake shore with the less developed areas in the western portion of Peru.

### Scenic Roads and Views

Peru has many outstanding scenic views. Most of the views are long-range and one can see multiple landscapes (See Scenic View Map). For example, in the eastern portion of Peru, one can look west beyond the open agricultural lands to the mountains. Conversely, there are several locations in the western mountain area where one can see the agricultural lands to Lake Champlain and beyond to the Green Mountains in Vermont.



### Lakes to Locks Scenic Byway

Lakes to Locks Passage, "The Great Northeast Journey," is a designated New York State Byway and in Peru, follows the entire length of Route 9 along the Lake. This scenic byway was designated to bring to life the early Lakes to Locks nation-building activities of the United States and Canada. Lakes to Locks Passage has been designated by the Federal Highway Administration as an "All American Road." This Federal recognition is the "cream of the crop" of America's historic and recreational Byways, a destination for national and international travelers. At the core of the Byway is the interconnected waterway consisting of the upper Hudson River, Champlain Canal, Lake George, Lake Champlain, Richelieu River and Chambly Canal.

## The Champlain Bikeway

One of North America's finest bicycle trails goes through AuSable along a 1,300+ mile network of bicycle routes, known as Lake Champlain Bikeways, in the Lake Champlain Valley of Vermont, New York, and Québec. The network includes a total of 35 loops and tours ranging from 10 to 60 miles in length, in addition to the Champlain Bikeway. Based on a rich array of natural, cultural, and historic themes, these loops meander along quiet back roads through extraordinary mountain and countryside scenery. In Peru, this trail includes the entire length of Route 9. In addition, one of the Bikeways themed loops (Acres of Apples) travels through Peru as follows along routes 9, 442, 22 and 373 as follows:

Acres of Apples Route Directions - (a part of the Northern Adirondack Coast Bikeways network)

### Mile Point

0.0	Port Kent Ferry Dock - Parking
0.2	R on Lake Street.
3.5	R at Route 9.
6.3	L at Bear Swamp Road.
10.4	R on Route 22.
10.6	Hamlet of Peru, L on Route 22B.
11.7	L on Mannix Road.
12.4	L on Old Town Road.
13.0	L on Barney Downs Road.
13.3	L on River Road.
13.8	R on Jarvis Road (becomes Union).
16.3	L on Brown Road.
17.5	R on Route 22.
18.0	L on Arthur Road.
18.7	R on Chasm Road.
19.5	L to stay on Chasm Road.
20.7	L on Route 9.
21.1	R on Route 373.
24.4	Port Kent Ferry Dock

## Trails and Linkages

Other trails and linkages exist in Peru in the form of hiking, cross-country ski, and snowmobile trails. See Public-Private Preserved Open Space and Recreation Area map.

## Adirondack Park Critical Environmental Areas

The Adirondack Park Land Use and Development Plan requires that proposed developments within certain “critical environmental areas” be subject to review and approval by the Adirondack Park Agency. (“CEAs”) are the more sensitive features of the Park’s natural environment. They are subcategories of the general land use area classifications and are provided extra protection by the law. These Critical Environmental Areas include wetlands, high elevations, areas around designated study rivers, state or federal highways, and lands in proximity to certain classifications of state-owned lands. More specifically, they include:

- Land at elevation of 2,500 feet or more (except in Hamlet areas) to protect thin soils and open space;
- Land within 1/8 mile of state wilderness, primitive or canoe areas (except in Hamlets);
- Land within 150 feet (in a Rural Use area) or within 300 feet (in a Resource Management area) of the edge of the right-of-way of a federal or state highway;
- Wetlands; and
- Land within 1/4 mile of rivers under study for inclusion in the Wild Scenic and Recreational Rivers System, except in Hamlet areas. (Land within 1/4 mile of rivers already classified Wild, Scenic or Recreational is subject to special regulation outside of Hamlet and Moderate Intensity Use areas, and are not designated as Critical Environmental Areas.)

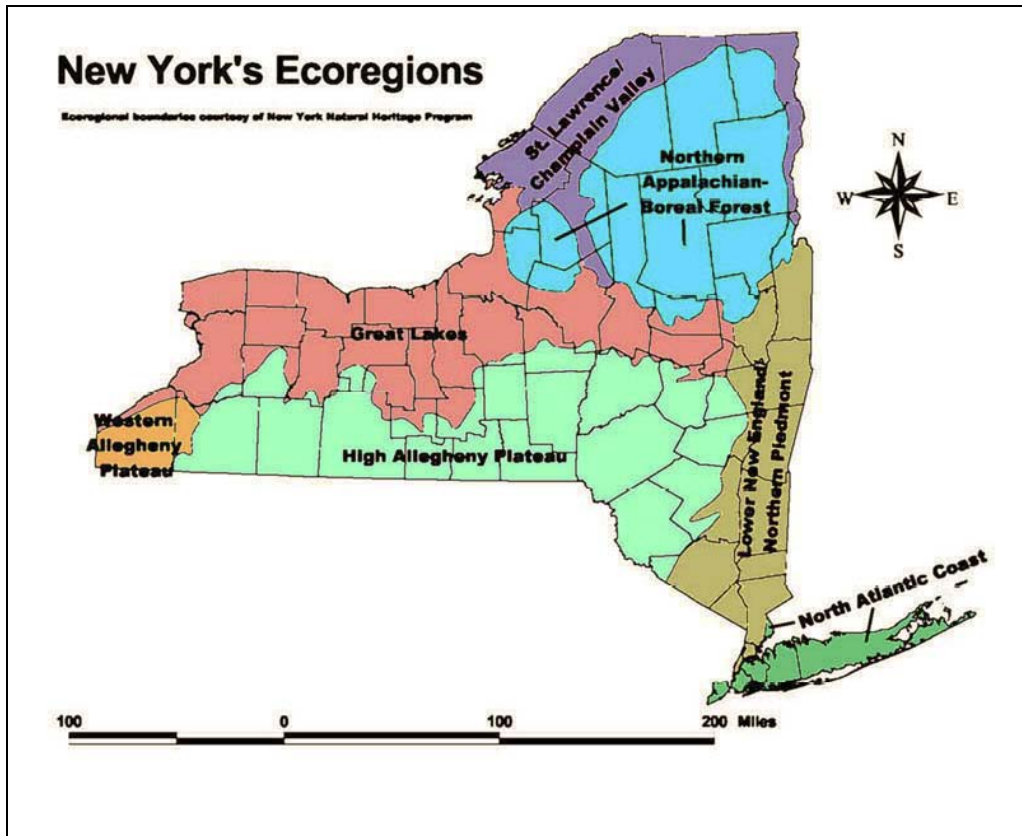
In Peru, CEA’s are located along the Ausable River at the boundary between the towns of Peru and Ausable, at Ausable Marsh (delta area of the Ausable River), Valcour Island, and numerous wetlands located within the Adirondack Park (See APA Critical Environmental Areas Map).

## Lake Champlain Basin



From a terrestrial perspective, the Lake Champlain Basin is comprised of three ecoregions (as defined by The Nature Conservancy). The majority of the watershed is classified as Northern Appalachian Boreal Forest, and is made up primarily of the Adirondack Mountains. The St. Lawrence/Champlain Valley ecoregion defines the area from northern Clinton County, along Lake Champlain, southward through the northern tip of Washington County. The Lower New England/Northern Piedmont ecoregion comprises the smallest part of the Basin: the northern extent of the Hudson River Valley and the Taconic Highlands in Washington County. About 3/4 of the Lake Champlain Basin falls

within the Adirondack Park boundary (southeastern Franklin County, the southwestern two thirds of Clinton County, all of Essex County, northeastern Warren County, and northwestern Washington County). The remaining 1/4 of the region outside the boundary includes the relatively open habitats of eastern Clinton County and central Washington County, and the relatively forested northern extent of the Taconic Highlands of northeastern Washington County. The Town of Peru is split, with part included in the St. Lawrence/Champlain Valley Ecoregion and the other in Northern Appalachian Boreal Forest (See Figure below).



The Lake Champlain Watershed contains many diverse natural communities and important plant and animal species. Critical Wildlife Habitats include<sup>2</sup> forested habitats, wetlands and other aquatic habitats, and grassland habitats.

### Agricultural Lands

Agricultural lands have been identified by the public as important open spaces. A large core of working agricultural lands can be found in the central section of Peru (See Agricultural Open Space Map). These include active fields, old fields, and orchards. Most of these working lands are located on large, unbroken parcels of land. To the east of I-87, agricultural land can still be found in the northeast corner of Town. West of the Blue Line, a few small patches of farmland

<sup>2</sup> From Comprehensive Wildlife Conservation Strategies for New York State: Lake Champlain Basin.

can be found along Peaseleeville Road and Patent Roads. Prime farmland and statewide soils of significance, both important natural resources needed to maintain profitable agriculture, are found throughout the central and eastern portions of Peru.

Publicly-Owned Open Space Lands and Easements (See Map “Public-Private Preserved Open Spaces and Recreation Areas)

1. New York State is currently finalizing the purchase of conservation easements on tracts of forest land in the vicinity of Terry Mountain in the western portion of Peru but no details or maps of this transaction are available at this time.
2. Black Brook Conservation Easement
3. NYS Forest and Recreation Lands:

Terry Mountain State Forest: This is managed by NYSDEC. Over 3,000 acres and accessed by Mud Pond Road, Terry Mountain is a passive use recreation area within the Adirondack Park , essentially forest land without improvements.

McComb Reservation: managed by NYSOPRHP, the entrance to the park is off Campsite Road in Schuyler Falls. The

park lies just outside the Adirondack Park along the Salmon River's course toward Lake Champlain. Visitors can swim in a large man-made pond, use non-motorized boats and fish in the pond or the Salmon River. The park has playing fields, a picnic area, a self-guided nature trail, a hiking trail, electric and non-electric wooded campsites. Winter activities include ice skating, cross-country skiing, snowshoeing and snowmobiling.

Burnt Hill State Forest

Taylor Pond Wild Forest

Valcour Island Primitive Area: This is managed by NYSDEC. The 1,100 acre Valcour Island is the largest island on the New York side of Lake Champlain and is within the Adirondack Park. The island has hiking trails and campsites along with the historic Bluff Point Lighthouse.

**Wild Forest:** *A wild forest area is an area where the resources permit a somewhat higher degree of human use than in wilderness, primitive or canoe areas, while retaining an essentially wild character. A wild forest area is further defined as an area that frequently lacks the sense of remoteness of wilderness, primitive or canoe areas and that permits a wide variety of outdoor recreation.*



Garden Island Wild Forest: Located just south of Valcour Island.

Ausable Point Campground: This is managed by NYSDEC and located off Route 9 just north of Bear Swamp Rd. There are 123 campsites and facilities. The park's an excellent location for boating, wind surfing and fishing. Day use facilities include a picnic area with pavilion and a large swimming beach



**Primitive:** *A primitive area of land or water that is either: Essentially wilderness in character, but contains structures, improvements, or uses that are inconsistent with wilderness, as defined, and whose removal, though a long term objective, cannot be provided for by a fixed deadline; and/or contains, or is contiguous to, private lands that are of a size and influence to prevent wilderness designation; or, Of a size and character not meeting wilderness standards, but where the fragility of the resource or other factors require wilderness management.*

Ausable Marsh Wildlife Management Area: This is managed by NYSDEC and is 580 acres adjacent to Lake Champlain along Route 9 at the intersection of Bear Swamp Road, just south of Ausable Point State Park and Campground. This area is managed for a variety of recreational and scientific purposes, including natural resources education; wildlife observation and photography; fishing; trapping; hunting; and canoeing. One of the primary objectives is to provide nesting and feeding habitat to a variety of waterfowl.

Peru Boat Launch –This is managed by NYSDEC. The Peru Boat, just south of the Valcour Marina on Route 9, offers a picnic area, parking for 50 cars and trailers and restroom facilities. There's a hard surface ramp and pumpout area.

### Scenic Areas and Byways

There is one state scenic byway and one federal byway in Peru: both are along Route 9. The byway's are named "Lakes to Locks Passage" and it is also designated as an "All American Road. This is the National Scenic Byways highest designation. The Lake Champlain Bike Trail follows Route 9 through Peru

## Town-Owned Open Spaces and Parks

Lapham Mills Park: At the corner of Lapham Mills Rd and Rte 22, 18 acres of mostly sports fields with 4 baseball diamonds and 5 soccer fields.



Sullivan Park: Off Town Park Road, 16 acres of mostly forested land with a baseball diamond, soccer field and a pavilion.

Little Ausable Park: At the corner of Main and Elm streets. a small, 2 acre park in the center of the hamlet with amphitheater seating and a gazebo that's used for the Town's summer concert series. There's also a children's

play set with swings and picnic tables.

Heyworth/Mason Park: Off Mason Hill Rd in the hamlet, 17 acres of mostly cleared land alongside the Little Ausable River. There's an empty historic building on site, the Heyworth/Mason building.



## Privately-Owned and Other Open Spaces or Recreation Areas

Peru Rod and Gun Club  
Peru Central School  
Arnold Camping Park  
Henry Dashnaw Golf Course  
Bridges Camping Park  
SUNY Plattsburgh (Faculty Student Association)  
Valcour Island Marina  
Carter Marina  
US Air Force  
US Coast Guard

## Trends and Threats to Open Space

### Build Out Analysis

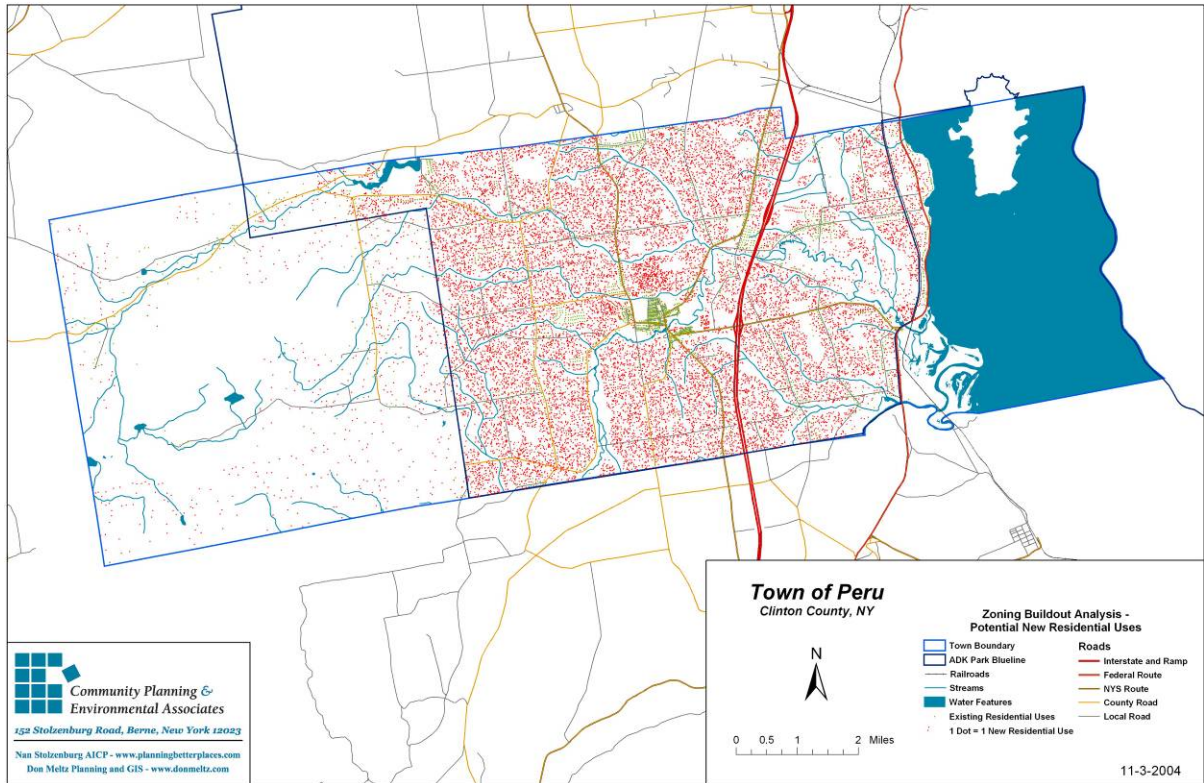
A build-out analysis is an exercise designed to estimate the amount of development that can possibly occur if all developable land in a town is built according to the Town's current land use regulations. This buildout analysis, included in the 2006 Plan applied current Peru land use regulations, considered environmental constraints that would limit development in certain areas, and calculated the total residential density allowed at full buildout of the town. It does not predict when this would occur, at what rate it would occur, or where it would occur first. It only predicts the possible end result. The analysis took into consideration the Town Zoning and APA allowable densities for development as well as environmentally constrained areas (open water, streams, wetlands and their 100 foot buffer, 100 year floodplain areas, and slopes over 15%). In essence, the analysis calculates the amount of buildable land left in Peru and estimates the number of new homes and population that may result at full buildout.

The following table summarizes the results of several growth scenarios. See the map below for a final map illustrating the results below.

<b>Development Scenarios</b>	<b># New Homes</b>	<b># New people</b>	<b>Total Population</b>
Current Status (2006)	2489 homes		6,370 people
When every potential lot is subdivided	17,990 homes	49,652	56,023
When only currently vacant parcels are developed	11,832 homes	32,656	39,026
When vacant parcels and all lots 50 acres or larger are developed (even if there is a residence on the parcel already)	15,501 homes	42,782	49,152
When vacant parcels and all lots 25 acres or larger are developed (even if there is a residence on the parcel already)	16,314 homes	45,026	51,396

The buildout analysis shows that current zoning policies establish a development capacity that

is very high. A full buildout would result in an increase in the number of homes by over 700%. Most of this growth is concentrated east of the Adirondack Park Blue Line as shown below. Current regulations and land ownership patterns will likely protect the mountains and woodlands within the Adirondack Park. However, a full buildout would eliminate the farmlands and open spaces in the rest of the town. If that were to occur, the vision and goals as established in the Town's plan would not be met.



## Threats

Threats to open spaces in Peru include:

### **Adirondacks**

- Atmospheric deposition
- Habitat loss and fragmentation
- Incompatible forestry practices
- Invasive species
- Human disturbance (illegal animal collection, recreation)
- Climate change

### **Champlain Valley**

- Habitat loss and fragmentation
- Degraded water quality and altered hydrology

Incompatible agricultural and forestry practices  
Invasive species  
Human disturbance (illegal animal collection, recreation)  
Climate change

**Loss of Aquatic Habitat Quantity - Streams & Rivers; Lakes, Ponds; Wetlands, Vernal Pools; Associated Riparian Areas <sup>3</sup>**

- Conversion from natural to cultural: resource extraction (mining); snagging; construction of docks, piers, and boathouses; dredging; filling; aquatic vegetation control. Wetlands/Vernal Pools: filling; draining; fragmentation or loss of connectivity.
- Climate change: temperature changes
- Alteration by natural processes: beaver activity; spring flooding
- Sedimentation/Erosion: stormwater; agriculture; silviculture; road sanding; construction site runoff; cleaning roadside ditches
- Altered hydrology: barriers (dams, weirs, culverts, bridges); water withdrawal/management; stormwater; floodplain alteration
- Loss of streamside buffers (loss of resting and shelter area)
- Competition from exotics: purple loosestrife; phragmites; water chestnut, etc.

**Loss of Aquatic Habitat Quality (Degraded health of system)**

- Degradation of water quality: water chemistry; temperature; sediment; toxics; nutrients; algal blooms; on-site septic; acid rain; drainage(wetlands/vernal pools): agricultural, commercial, and residential purposes; mosquito control (wetlands/vernal pools): chemical application
- Altered hydrology: water level management; stormwater; floodplain alteration; ground water extraction
- Habitat composition altered by invasive or non-native species
- Habitat composition altered by overuse: beaver; geese; muskrat

**Loss of or Degraded Terrestrial Habitat - Forests, Shrublands, Grasslands, Unique Natural Areas, Early Successional Areas**

- Conversion from natural to cultural: urbanization, agriculture (row cropping), resource extraction (mining)
- Conversion from one natural cover type to another: succession; forestry; agricultural reversion
- Climate change: range restriction; changes in distribution; impacts to migration and breeding
- Erosion: silviculture; agriculture; stormwater
- Barriers: roads; development
- Pollution: acid rain; soil contamination

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<sup>3</sup> Threat list adapted from New York State Wildlife Conservation Plan

- Habitat composition altered by invasive plants or non-native species
- Habitat composition altered by overuse: deer browse
- Fragmentation of habitat types
- Reduction of patch size, shape and area
- Human created abrupt edges in forest areas
- Loss of connectivity of habitats



## Community Open Space Vision and Goals

The 2006 Plan establishes a long-term vision and a set of goals for the Town of Peru. Although both are comprehensive and address a variety of issues, open space is a critical component. Open space contributes to the rural character of Peru. The vision specifically states that agriculture, scenic views and natural resources are important and those features are also open space components. The full vision statement is:

### Peru's Vision Statement

The Town of Peru is a safe, attractive and welcoming community with a small town rural character. A charming but vibrant town center retains its historic features and provides conveniences valued by residents and visitors in a setting that is pedestrian friendly. A compact town center is balanced by a rural landscape that supports agricultural enterprises, scenic views, and important natural resources. Peru has a vibrant business climate that supports and encourages responsible business and job growth.

Peru continues to encourage the availability of quality recreational facilities for all age groups, a solid infrastructure, and a diversity of housing opportunities. Peru provides public services that are supported by fair and affordable taxes.

Peru strives to provide a strong sense of community, supports a quality education system, and family oriented atmosphere while nurturing a pride and appreciation of our unique heritage.

The 12 established goals included in the 2006 Plan are listed below. Open space plays a critical role in several.

Goal 1: Keep small town and rural atmosphere.
Goal 2: Preserve and enhance the Towns' historical and cultural heritage.
Goal 3: Protect community identified open spaces and scenic views.
Goal 4: Enhance the visual character of the town.
Goal 5: Provide quality public services, infrastructure (including roads and pedestrian systems), and recreational opportunities in a cost effective manner.
Goal 6: Create a vibrant business climate that encourages growth in a manner that maintains the Town's environment, rural character, and quality of life.
Goal 7: Protect the Town's significant environmental resources (including unique plant and animal habitats, ground water quality,

wetlands, or surface water).
Goal 8: Protect farms, farmland, and promote agricultural economic growth.
Goal 9: Promote quality and affordable housing conditions.
Goal 10: Promote the town center as the community focal point.
Goal 11: Maintain and enhance Peru’s sense of community.

This Open Space Strategic Plan addresses the following Comprehensive Plan Goals as follows:

**Goal 3: Protect community identified open spaces and scenic views.**

- Objective A: Identify scenic resources and important open spaces to be protected in Peru.
- Objective B: Protect scenic views and increase the amount of land preserved as open space through non-regulatory programs.
- Objective C: Increase the amount of land permanently preserved as open space through acquisition.
- Objective D: Protect scenic views and increase the amount of land preserved as open space through regulatory programs.
- Objective E: Seek funding for open space and scenic view conservation activities.

**Goal 7: Protect the Town’s significant environmental resources (including unique plant and animal habitats, ground water quality, wetlands, or surface water).**

- Objective A: Erosion and Sediment Control, Floodplain Protection, Stream Protection, Wetland Protection.
- Objective B: Maintain Wildlife Habitats, Direct Development Away from ecologically sensitive lands.
- Objective C: Maintain and enhance groundwater quality and quantity and water pollution prevention.
- Objective D: Forestry management practices.

**Goal 8: Protect farms, farmland, and promote agricultural economic growth.**



## Preservation Concepts and Strategies

The 2006 Comprehensive Plan outlines a variety of tasks for the Town to undertake over time to protect open space, scenic resource, and other natural features. This plan is designed to address and implement the majority of those strategies designated as short-term tasks (0 to 3 years after plan adoption). The mid-term and long-term strategies remain important and the Town Board should begin implementing these as called for in the plan by 2010.

### Long-Term Open Space Planning Needs

Long-term, the Town of Peru should work to implement their comprehensive and this strategic open space plan to adequately protect their vital open spaces. Emphasis should be on:

Eastern Section: stream corridors including the streams, floodplains, adjacent wetlands, banks and immediate areas over 15% slope, and locations where streams pass through woodland patches.

Central Section: farmlands, especially those that include stream corridors and woodland patches an where farmland also overlaps with important scenic viewed and prime soils.

Western Section: This area's open space resources seem quite secured. However, issues related to accessing those open space remain an important area for the Town of Peru to address. These issues include access to trails, signage, parking, and adequate maps of trails.



Action	Type	Time Frame	Strategic Open Space Plan Recommendations
<b>Goal 3: Protect community identified open spaces and scenic views.</b>			
<i>Objective A: Identify scenic resources and important open spaces to be protected in Peru</i>			
Define and map important open spaces	Program	S	See Maps: Public-Private Preserved Open Spaces, Sensitive Natural and Ecological Resources, Agricultural Open Spaces, Workshop Map Summary, Stream and River Corridors, and APA Critical Environmental Areas.
Organize a scenic view study.	Program	S	Town Board, Planning Board, Conservation Advisory Council, with Professional Assistance. See Viewsheds and Viewpoints Map that shows major views and view directions. These locations should be further evaluated. Peru should consider requiring use of the Visual EAF and/or specific visual impact studies for development at these locations.
<i>Objective B: Protect scenic views and increase the amount of land preserved as open space through non-regulatory programs.</i>			
Encourage landowner participation in State and Federal programs such as the USDA Natural Resources Conservation Service Wetlands Reserve Program, Wildlife Incentives Program, and the USDI's Fish and Wildlife Service Partners for Fish and Wildlife program, among others.	Program	O	Town Board to implement as per Comprehensive Plan.
Encourage use of the 480-a- Forest Tax Law exemptions.	Administrative	O	Town Board to implement as per Comprehensive Plan.
Provide tax and other incentives to private landowners who conserve open space or protect scenic views on their properties.	Program and Local Law Amendment or Adoption	S	Town Board to implement as per Comprehensive Plan.

Action	Type	Time Frame	Strategic Open Space Plan Recommendations
Work with and encourage landowners to grant and maintain trail easements across their properties.	Program	I	Town Board to implement as per Comprehensive Plan.
Ensure that Ag and Markets laws are followed for notice of intent, etc.	Administrative	S/O	Town Board to implement as per Comprehensive Plan.
Establish educational initiatives to inform citizens about the importance of scenic vistas and viewsheds and to encourage voluntary protection	Program	I/O	Town Board to implement as per Comprehensive Plan.
Designate local roads as "Scenic".	Policy	I	Town Board to implement as per Comprehensive Plan.
Evaluate the character of the entrances to the Town and the existing sign entrance signs and update if needed.	Program	I	Town Board to implement as per Comprehensive Plan.
<i>Objective C: Topic: Increase the amount of land permanently preserved as open space through acquisition.</i>			
Acquire priority open space and scenic lands through conservation easements, lease arrangements, management agreements, mutual covenants, fee simple sales, and donations.	Program	O	<p>Lands within the Adirondack Park have densities, landownership patterns, and other regulations that are adequate to protect the mountain areas of Town. It is recommended however, that town zoning be amended to reflect the APA density requirements. This is reflected in the recommended Zoning Concept Map.</p> <p>Critical areas to concentrate acquisition of property or easements include the stream and river corridors and the agricultural lands. See Stream and River Corridors and Agricultural Open Space Maps. See Appendix A for a Model Easement for future use.</p> <p>I-87 negatively impacts natural connections between the eastern and central portion of Peru. Stream corridors represent the only major remaining natural links. Not only are these corridors important for water quality, but for maintaining biodiversity of the Town.</p>

Action	Type	Time Frame	Strategic Open Space Plan Recommendations
			Open Spaces along Lapham Mills Road is also critical due to the I-87 underpass. The Town should consider protecting lands along this road corridor as well.
Explore use of view easements or consider use of leaseback arrangements where the land is purchased by the town and then leased back subject to certain restrictions for management of the scenic (or open space) resources.	Program	S	Town Board with assistance from area or regional land trusts. See Appendix A for model conservation easement to use for this purpose.
<i>Objective D: Protect scenic views and increase the amount of land preserved as open space through regulatory programs.</i>			
Offer Density Bonuses as an incentive to preserve open space.	Local Law Amendment	S	See Draft Zoning Section 406 (Appendix E)
Require that major subdivisions integrate 50% of the lot as open space into the plat.	Local Law Amendment	S	See Draft Zoning Section 403 (January 2008 Draft Zoning). It is recommended that areas within the recommended Ag Overlay District be required to have 65% open space and used for agricultural purposes. See following recommendations.
Direct development away from ecologically sensitive lands by requiring that buildable and unbuildable areas of a parcel be identified and all building is directed away from sensitive areas.	Local Law Amendment	S	See Draft Zoning Section 212 (4)(d), and 403.5 (C) and (D) for draft language on siting of building envelopes during site plan and subdivision (January 2008 Draft Zoning). Further, it is recommended that the town establish a stream and river corridor overlay district which includes the most sensitive lands in Peru.
Create a 100 foot vegetated riparian buffer along streams.	Local Law Amendment	S	See Draft Zoning Section 328 (January 2008 Draft Zoning). See also the recommended Stream and River Corridor Overlay District.
Lower density to allow for more sustainable levels of development in the future.	Local Law Amendment	S	See Draft Zoning Sections 212, 213, and 215 for density tables showing recommended reduced development densities for ag and conservation areas

Action	Type	Time Frame	Strategic Open Space Plan Recommendations
			(January 2008 Draft Zoning). Further, it is recommended that the former RL-1 areas located within the Adirondack Park be renamed as "Adirondack Rural" with densities set consistent with APA requirements. See Appendix E.
Utilize development techniques that create open spaces such as clustering and conservation subdivisions	Local Law Amendment	S	See Draft Zoning Section 403 (January 2008 Draft Zoning)
Establish an open space, viewshed or scenic corridor overlay district	Local Law Amendment	S	See Draft Zoning Concept map which illustrates use of the Ag Overlay District, the Watershed Protection Overlay District, and the Stream and River Corridor Overlay District.
Consider establishing a hillside/ridgeline overlay zone.	Local Law Amendment	S	The Sensitive Natural and Ecological Resource Map shows that most steep slopes are within the Adirondack Blue Line. It is recommended that language be added to subdivision and zoning to ensure that new structures are sited away from steep slopes and below ridgelines. See Draft Zoning (Appendix E).
Establish limits of disturbance for each site in subdivision.	Local Law Amendment	S	See Draft Zoning Section 212 (4)(d), and 403.5 (C) and (D) for draft language on siting of building envelopes during site plan and subdivision (January 2008 Draft Zoning)
<i>Objective E: Seek funding for open space and scenic view conservation activities.</i>			
Explore creative financing techniques to fund open space programs	Program	S/I	Town Board to implement as per Comprehensive Plan.

Action	Type	Time Frame	Responsible for Completing Action Step
<b>Goal 7: Protect the Town's significant environmental resources (For example, these might include unique plant and animal habitats, ground water quality, wetlands or surface water).</b>			
<i>Objective A: Erosion and Sediment Control, Floodplain Protection, Stream Protection, Wetland Protection</i>			
Amend zoning to classify that portion of a parcel that is within the 100-year designated floodplain as undevelopable and incorporate soil erosion and sediment control programs for all site plans and major subdivisions.	Local Law Amendment	S	See Draft Zoning Section 321 (Appendix E)
Establish policy to ensure that stormwater runoff rate after development does not exceed the rate that existed prior to the site being developed.	Policy	S	See Draft Zoning Section 329 (January 2008 Draft Zoning)
Provide educational materials to all who seek a building permit for constructing a new home.	Program	I/O	Town Board to implement as per Comprehensive Plan.
Ensure that all highway personnel receive training on the state and federal Phase II Storm Water Regulations as they impact road building and maintenance activities.	Training	S/O	Town Board to implement as per Comprehensive Plan.
Implement Best Management Practices as soon as possible after road construction or maintenance activities (use hydroseeding or other approved methods) to re-vegetate areas left bare.	Program and Training	S/O	Town Board to implement as per Comprehensive Plan.
Encourage voluntary adoption of Best Management Practices by farm operations and encourage participation in the federally sponsored Agricultural Environmental Management (AEM) program for farms.	Program	I/O	Town Board to implement as per Comprehensive Plan.
Ensure that reviewing boards are familiar with and utilize the most recent version of the New York Standards and Specifications for Erosion and Sediment Control.	Training	S/O	Town Board to implement as per Comprehensive Plan.
During project review, provide applicants with a stormwater pollution prevention plan checklist	Program	S/O	Town Board to implement as per Comprehensive Plan.
Include mapped wetlands in a conservation overlay zone	Local	S	See Sensitive Natural and Ecological, and Stream and

Action	Type	Time Frame	Responsible for Completing Action Step
and determine appropriate restrictions to protect them.	Law Amendment		River Corridor maps. Outside the Adirondack Blue Line, most wetlands are found within the stream corridors. It is recommended that these stream corridors be protected through zoning to accomplish this strategy.
<i>Objective B: Maintain Wildlife Habitats, Direct Development Away from ecologically sensitive lands</i>			
Identify areas of high ecological and wildlife value.	Program	I	See Stream and River Corridor and the Sensitive Natural and Ecological Resources maps.
Effectively manage site review and development with wildlife and ecologically sensitive sites in mind.	Administrative	O	See Draft Zoning Section 401.1 (f) and 401.4 (17) (Appendix E)
Provide education and technical assistance/information for wildlife habitat and ecological site restoration and/or protection to landowners.	Program	I/O	Town Board to implement as per Comprehensive Plan.
Provide applicants with information on the resources of their property	Program	I/O	Town Board to implement as per Comprehensive Plan.
Offer density bonuses or other incentives to landowners and developers if they protect core wildlife areas and sensitive ecological areas.	Local Law Amendment	I/O	See Draft Zoning Section 406 (Appendix E)
Reduce allowable residential development densities via a conservation overlay zone.	Local Law Amendment	S	The critical open space areas should be the stream/stream corridor areas, especially where these overlap with larger patches of woodland in the eastern and central sections of Peru. Consider establishing a primary conservation overlay zone that includes the stream corridor where no disturbances should be allowed. See Appendix E.
<i>Objective C: Groundwater quality and quantity and water pollution prevention.</i>			
Implement erosion and sediment control practices	Program	S	Town Board to implement as per Comprehensive Plan.

Action	Type	Time Frame	Responsible for Completing Action Step
outlined, including use of erosion and sediment best management practices.	and Local Law Amendment		
Initiate an education program for landowners about groundwater quality and quantity	Program	I/O	Town Board to implement as per Comprehensive Plan.
Initiate a local Peru Pollution Prevention Strategy where the Town takes a lead role in developing and implementing an innovative strategy	Program	S/O	Town Board to implement as per Comprehensive Plan.
<i>Objective D: Forestry management practices.</i>			
Analyze forest habitat locations compared with slope and water features and identify forested areas that may be most susceptible to erosion/sedimentation during forestry operations	Program	S/O	See Stream and River Corridor Map. The boundaries for this district include steep slopes and highly erodible areas adjacent to streams that would be most susceptible.
Educate landowners about the roles forests play in the community and environment, and encourage landowners to use Best Management Practices for Forestry.	Program	I/O	Town Board to implement as per Comprehensive Plan.

Action	Type	Time Frame	Responsible for Completing Action Step
<b>Goal 8: Protect farms, farmland, and promote agricultural economic growth.</b>			
Make changes to zoning so that they are farm-friendly and flexible to allow a variety of agricultural uses.	Local Law Amendment	S	See January 2008 Draft Zoning
For farms located within an NYS certified Ag District, consider a modified site plan review using the NYS model for farm structures.	Local Law Amendment	S	See Draft Zoning Section 401.3 (Appendix E)
Ensure that local land use laws reflect (and planning board administers)	Local Law	O	See January 2008 Draft Zoning



Action	Type	Time Frame	Responsible for Completing Action Step
NY Ag and Market Law requirements for the Town to evaluate impacts of projects on agriculture in an ag district and notification and disclosure requirements.	Amendment, Administrative		
Develop and pass a right-to-farm law	Program, Local Law Adoption	S	See Appendix B for a model right-to-farm law.
Consider placing an agricultural member on your Planning Board	Administrative	S	Town Board to implement as per Comprehensive Plan.
Work with the County to develop a proposal to obtain state and federal funding for purchase of development rights funds for priority farm parcels in Peru.	Grant Writing	O	Town Board to implement as per Comprehensive Plan.
Consider establishing a locally supported program to purchase conservation easements from willing landowners.	Program	O	Town Board to implement as per Comprehensive Plan. See Also Appendix A.
Work to prioritize farmlands for preservation funding that may be available from the state.	Program	S	Town Board to implement as per Comprehensive Plan.
Utilize conservation subdivisions for subdivisions taking place on lands located within the ag district.	Local Law Amendment	S	See Draft Zoning Section 403 (January 2008 Draft Zoning)
Create an agricultural overlay zone in the RL-1 zone (see next strategy also).	Local Law Amendment	S	See Agricultural and Critical Farmlands Map and Draft Zoning Section 403 (January 2008 Draft Zoning). Draft Section 403 indicates that all major subdivisions shall be clustered/conservation subdivision design to protect ag lands to the maximum extent. See also Section 212 (Rural Lands) (January 2008 Draft Zoning) as this includes rural siting standards for all

Action	Type	Time Frame	Responsible for Completing Action Step
			development. The Agriculture and Critical Farmland Map shows a core agricultural land use cluster. Farmlands within this cluster should take precedence for all conservation easement, purchase of development rights, or other land use programs targeted to permanent preservation of agricultural lands. In addition, it is recommended that zoning create an overlay district to match this critical core of farmland and establish a requirement that major subdivisions within it should require a minimum of 65% permanently preserved open space that includes working farmlands (See Appendix E).
Renaming RL-1 to "Agriculture" or an "Agriculture/Rural Residence" zone or an AR zone and change the density to 1 dwelling per 3 acres (or more if you can do this and be politically acceptable). Establish a true density measurement using dwellings per acre instead of relying on a min. lot size.	Local Law Amendment	S	See January 2008 Draft Zoning
Work with local farmers and landowners to educate them and encourage them to participate in existing programs that benefit farms.	Program	O	Town Board to implement as per Comprehensive Plan.
Require a buffer between new residential development and agricultural operations to create physical barriers between potentially incompatible uses.	Local Law Amendment	S	See Draft Zoning Section 212 (4)(a) (January 2008 Draft Zoning)

## Appendix A. Model Conservation Easement

This model is the source for many conservation easements. There are a many different variations of this model, but it provides a basis to start developing a conservation easement structure for the Town if one should be needed in the future. The source of this document is: Source: Diehl, J. and T. Barrett. "The Conservation Easement Handbook". For: The Trust for Public Land and the Land Trust Alliance. Washington, DC.

### DEED OF CONSERVATION EASEMENT

THIS GRANT DEED OF CONSERVATION EASEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ and \_\_\_\_\_, husband and wife, having an address at \_\_\_\_\_ ("Grantors"), in favor of \_\_\_\_\_ a non-profit \_\_\_\_ [state of incorporation] corporation [qualified to do business in \_\_\_\_ (state where property is located)], having an address at \_\_\_\_\_ ("Grantee").

WITNESSETH:

WHEREAS, grantors are the sole owners in fee simple of certain real property in \_\_\_\_\_ County, \_\_\_\_\_ [state], more particularly described in Exhibit A attached hereto and incorporated by this reference (the "Property"); and WHEREAS, the property possesses \_\_\_\_ [e.g., natural, scenic, open space, historical, educational, and/or recreational] values (collectively, "conservation values") of great importance to Grantors, the people of \_\_\_\_\_ [county, locale, or region] And the people of the State of \_\_\_\_\_; and WHEREAS, in particular, \_\_\_\_\_ [describe specific conservation values]; and

WHEREAS, the specific conservation values of the Property are documented in an inventory of relevant features of the Property, dated \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ [on file at the offices of Grantee—or— attached hereto as Exhibit B] and incorporated by this reference ("Baseline Documentation"), which consists of reports, maps, photographs, and other documentation that the parties agree provide, collectively, an accurate representation of the Property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, Grantors intend that the conservation values of the Property be preserved and maintained by the continuation of land use patterns, including, without limitation, those relating to \_\_\_\_\_ [e.g., farming, ranching, or timber production] Existing at the time of this grant, that do not significantly impair or interfere with those values; and

WHEREAS, Grantors further intend, as owners of the Property, to convey to Grantee the

right to preserve and protect the conservation values of the Property in Perpetuity; and

WHEREAS, Grantee is a publicly supported, tax-exempt nonprofit organization, qualified under Section 501(c)(3) and 170(h) of the Internal Revenue Code, whose primary purpose is [e.g., the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, and/or open space condition] ; and

WHEREAS, grantee agrees by accepting this grant to honor the intentions of Grantors stated herein and to preserve and protect in perpetuity the conservation values of the Property for the benefit of this generation and the generations to come;

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of [state where property is located] and in particular [specific state statutory authority] , Grantors hereby voluntarily grant and convey to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth (“Easement”).

1. Purpose. It is the purpose of this Easement to assure that the Property will be retained forever [predominantly] in its [e.g., natural, scenic, historic, agricultural, forested, and/or open space] condition and to prevent any use of the Property that will significantly impair or interfere with the conservation values of the Property. Grantors intend that this Easement will confine the use of the Property to such activities, including, without limitation, those involving [e.g., farming, ranching, timber production, public recreation, or education], as are consistent with the purpose of this Easement.

2. Rights of Grantee. To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:

a. To preserve and protect the conservation values of the Property;

b. To enter upon the Property at reasonable times in order to monitor Grantors’ compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantors, and Grantee shall not unreasonably interfere with Grantors’ use and quiet enjoyment of the Property; and

c. To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to paragraph 6.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

[Insert Express Restrictions]

4. Reserved Rights. Grantors reserve to themselves, and to their personal representatives, heirs, successors, and assigns, all rights accruing from their ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. [Without limiting the generality of the foregoing, the following rights are expressly reserved:]

[Insert Express Reservations, if desired]

5. Notice of Intention to Undertake Certain Permitted Actions. The purpose of requiring Grantors to notify Grantee prior to undertaking certain permitted activities, as provided in paragraphs \_\_\_\_\_, is to afford Grantee an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the purpose of this Easement. Whenever notice is required Grantors shall notify Grantee in writing not less than [e.g., sixty (60)] days prior to the date Grantors intend to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

5.1 Grantee's Approval. Where Grantee's approval is required, as set forth in paragraphs \_\_\_\_\_, Grantee shall grant or withhold its approval in writing within [e.g., sixty (60)] Days of receipt of Grantors' written request there for. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement.

6. Grantee's Remedies. If Grantee determines that Grantors are in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantors of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured. If Grantors fail to cure the violation within [e.g., thirty (30)] Days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a [thirty (30)] Day period, fail to begin curing such violation within the [thirty (30)] Day period, or fail to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement of injury to any conservation values protected by this Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantors' liability there for, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, Grantee may pursue its remedies under this

paragraph without prior notice to Grantors or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantors agree that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

6.1 Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Easement against Grantors, including, without limitation, costs of suit and attorneys' fees, and any costs of restoration necessitated by Grantors' violation of the terms of this Easement shall be borne by Grantors. If Grantors prevail in any action to enforce the terms of this Easement, Grantors' costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantee.

6.2 Grantee's Discretion. Enforcement of the terms of this Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantors shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantors shall impair such right or remedy or be construed as a waiver.

6.3 Waiver of Certain Defenses. Grantors hereby waive any defense of laches, estoppel, or prescription.

6.4 Acts Beyond Grantors' Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantors for any injury to or change in the Property resulting from causes beyond Grantors' control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantors under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

7. Access. No right of access by the general public to any portion of the Property is conveyed by this Easement.

8. Costs and Liabilities. Grantors retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate comprehensive general liability insurance coverage. Grantors shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantors.

8.1 Taxes. Grantors shall pay before delinquency all taxes, assessments, fees, and charges of

whatever description levied on or assessed against the Property by competent authority (collectively “taxes”), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. [Grantee is authorized but in no event obligated to make or advance any payment of taxes, upon [e.g., three (3)] Days prior written notice to Grantors, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Grantors at the lesser of      percentage points over the prime rate of interest from time to time charged by [designated bank] or the maximum rate allowed by law.]

8.2 Hold Harmless. Grantors shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively “Indemnified Parties”) from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorneys’ fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the obligations specified in paragraphs 8 and 8.1; and (3) the existence or administration of this Easement.

9. Extinguishment. If circumstances arise in the future such as render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by [state] law at the time, in accordance with paragraph 9.1. Grantee shall use all such proceeds in a manner consistent with the conservation purposes of this grant.

9.1 Proceeds. This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of paragraph 9, the parties stipulate to have a fair market value determined by multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. The values at the time of this grant shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Internal Revenue Code of 1954, as amended. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

9.2 Condemnation. If the Easement is taken, in whole or in part, by exercise of the power of

eminent domain, Grantee shall be entitled to compensation in accordance with applicable law.

10. Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable), and the applicable regulations promulgated there under, and authorized to acquire and hold conservation easements under [state statute] (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that the conservation purposes that this grant is intended to advance continue to be carried out.

11. Subsequent Transfers. Grantors agree to incorporate the terms of this Easement in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantors further agree to give written notice to Grantee of the transfer of any interest at least [e.g., twenty (20)] days prior to the date of such transfer. The failure of Grantors to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

12. Estoppel Certificates. Upon request by Grantors, Grantee shall within [e.g., twenty (20)] days execute and deliver to grantors any document, including an estoppel certificate, which certifies Grantors' compliance with any obligation of Grantors contained in this Easement and otherwise evidences the status of this Easement as may be requested by Grantors.

13. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid:

To Grantors: \_\_\_\_\_

To Grantee: \_\_\_\_\_

or to such other address as either party from time to time shall designate by written notice to the other.

14. Recordation. Grantee shall record this instrument in timely fashion in the official records of \_\_\_\_\_ County, [state]. And may re-record it at any time as may be required to preserve its rights in this Easement.

15. General Provisions.

a. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of [state].

b. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of, [state statute]. If any provision in this instrument is



found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

c. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

d. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. [No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with paragraph \_\_\_\_ (see supplementary provisions re: Amendment.)]

e. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f. Joint Obligation. The obligations imposed by this Easement upon Grantors shall be joint and several.

g. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

h. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

i. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

j. Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF Grantors and Grantee have set their hands on the day and year first above written.

---

Grantors

\_\_\_\_\_  
Grantee

By \_\_\_\_\_  
its [Official Capacity]  
[Acknowledgments]

**Supplementary Provisions**

(Paragraph numbers indicate relative position in model.)

[5.2] Arbitration. If a dispute arises between the parties concerning the consistency of any proposed use or activity with the purpose of this Easement, and Grantors agree not to proceed with the use or activity pending resolution of the dispute, either party may refer the dispute to arbitration by request made in writing upon the other. Within [e.g., thirty (30)] days of the receipt of such a request, the parties shall select a single arbitrator to hear the matter. If the parties are unable to agree on the selection of a single arbitrator, then each party shall name one arbitrator and the two arbitrators thus selected shall select a third arbitrator; provided, however, if either party fails to select an arbitrator, or if the two arbitrators selected by the parties fail to select the third arbitrator within [e.g., fourteen (14)] days after the appointment of the second arbitrator, then in each such instance a proper court, on petition of a party, shall appoint the second or third arbitrator or both, as the case may be, in accordance with [state arbitration statute] , or any successor statute then in effect. The matter shall be settled in accordance with the [state arbitration statute or other appropriate body of rules] then in effect, and a judgment on the arbitration award may be entered in any court having jurisdiction thereof. The prevailing party shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for all its costs and expenses related to such arbitration, including, without limitation, the fees and expenses of the arbitrators and attorneys' fees, which shall be determined by the arbitrator(s) and any court of competent jurisdiction that may be called upon to enforce or review the award.

[Between 9 and 10] Amendment. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantors and Grantee are free to jointly amend this Easement; provided that no amendment shall be allowed that will affect the qualification of this Easement or the status of Grantee under any applicable laws, including [state statute] or Section 170(h) of the Internal Revenue Code of 1954, as amended, and any amendment shall be consistent with the purpose of this Easement, and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of \_\_\_\_\_ County, [state] .

[10.1] Executory Limitation. If Grantee shall cease to exist or to be a qualified organization

under Section 170(h) of the Internal Revenue Code of 1954, as amended, or to be authorized to acquire and hold conservation easements under [state statute] , and a prior assignment is not made pursuant to paragraph 10, then Grantee's rights and obligations under this Easement shall become immediately vested in [designated back-up grantee] . If [designated back-up grantee] is no longer in existence at the time the rights and obligations under this Easement would otherwise vest in it, or if [designated back-up grantee] is not qualified or authorized to hold conservation easements as provided for an assignment pursuant to paragraph 10, or if it shall refuse such rights and obligations, then the rights and obligations under this Easement shall vest in such organization as a court of competent jurisdiction shall direct pursuant to the applicable [state] law and with due regard to the requirements for an assignment pursuant to paragraph 10.

[Between 10 and 11] Subordination. At the time of conveyance of this Easement, the Property is subject to the mortgage identified in Exhibit [C or D] attached hereto and incorporated by this reference, the holder of which has agreed by separate instrument, which will be recorded immediately after this Easement, to subordinate its rights in the Property to this Easement to the extent necessary to permit the Grantee to enforce the purpose of the Easement in perpetuity and to prevent any modification or extinguishment of this Easement by the exercise of any rights of the mortgage holder. The priority of the existing mortgage with respect to any valid claim on the part of the existing mortgage holder to the proceeds of any sale, condemnation proceedings, or insurance or to the leases, rents, and profits of the Property shall not be affected thereby, and any lien that may be created by Grantee's exercise of any of its rights under this Easement shall be junior to the existing mortgage. Upon request, Grantee agrees to subordinate its rights under this Easement to the rights of any future mortgage holders or beneficiaries of deeds of trust to the proceeds, leases, rents, and profits described above and likewise to subordinate its rights under any lien and to execute any documents required with respect to such subordination, except that the priority of any lien created by Grantee's exercise of any of its rights under this Easement prior to the creation of a mortgage or deed of trust shall not be affected thereby, nor shall this Easement be subordinated in any other respect.

## Appendix B. Model Right to Farm Law for the Town of Peru

Be it enacted by the Town Board of the Town of Peru as follows:

### **Section 1. Legislative Intent and Purpose**

The Town Board recognizes farming is an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the Town of Peru. The Town Board further declares that it shall be the policy of this Town to encourage agriculture and foster understanding by all residents of the necessary day to day operations involved in farming so as to encourage cooperation with those practices. It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agri-businesses, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in the Town of Peru, it is necessary to limit the circumstances under which farming may be deemed to be nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

### **Section 2. Definitions**

"Farmland" shall mean land used in agricultural production, as defined in subdivision four of section 301 of Article 25AA of the State Agriculture and Markets law.

"Farmer" shall mean any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock.

"Agricultural products" shall mean those products as defined in section 301(2) of Article 25AA of the State Agriculture and Markets law, including but not limited to:

- a. Field crops, including corn, wheat, rye, barley, hay, potatoes and dry beans.
- b. Fruits, including apples, peaches, grapes, cherries and berries.
- c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, llamas, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk and milk products, eggs, furs, and poultry products.
- f. Maple sap and sugar products.
- g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
- h. Aquaculture products, including fish, fish products, water plants and shellfish.
- i. Short rotation woody crops raised for bioenergy.

- j. Production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.

"Agricultural practices" shall mean those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop production methods, and construction and use of farm structures.

"Farm operation" shall be defined in section 301 (11) in the State Agriculture and Markets Law.

### **Section 3. Right-to-Farm Declaration**

Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge, research and improved technologies. Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

1. Reasonable and necessary to the particular farm or farm operation,
2. Conducted in a manner which is not negligent or reckless,
3. Conducted in conformity with generally accepted and sound agricultural practices,
4. Conducted in conformity with all local state, and federal laws and regulations,
5. Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person, and
6. Conducted in a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.

Nothing in this local law shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow sound agricultural practice, as outlined in this section.

### **Section 4. Notification of Real Estate Buyers**

In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with Section 310 of Article 25-AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows: "It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products and also for its natural and ecological value. This notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors." This notice shall be provided to prospective purchase of property within an agricultural district or on property with boundaries within 500 feet of a farm operation located in an agricultural district. A copy of

this notice shall included by the seller or seller's agent as an addendum to the purchase and sale contract at the time an offer to purchase is made.

### **Section 5. Resolution of Disputes**

1. Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for a determination by the Commission or Agriculture and Markets about whether the practice in question is sound pursuant to Section 308 of Article 25AA of the State Agriculture and Markets Law.

2. Any controversy between the parties shall be submitted to the committee within thirty (30) days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.

3. The committee shall be composed of three (3) members from the Town selected by the Town Board, as the need arises, including one representative from the farm community, one person from Town government and one person mutually agreed upon by both parties involved in the dispute.

4. The effectiveness of the committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.

5. The controversy shall be presented to the committee by written request of one of the parties within the time limits specified. Therefore after, the committee may investigate the facts of the controversy but must, within twenty-five (25) days, hold a meeting at a mutually agreed place and time to consider the merits of the matter and within five (5) days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each consider to be pertinent facts. No party bringing a complaint to the committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel. The time limits provided in this subsection for action by the committee may be extended upon the written stipulation of all parties in the dispute.

6. Any reasonable costs associated with the function of the committee process shall be borne by the participants.

### **Section 6. Severability Clause**

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local law. The Town hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any

one or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

**Section 7. Precedence**

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations.

**Section 8. Effective Date**

This Local Law shall be effective immediately upon filing with the New York Secretary of State.

## Appendix C. Open Space and Environmental Review Checklist for the Planning Board and Zoning Board of Appeals in Peru

The following Open Space Checklist should be incorporated by the Planning Board and Zoning Board of Appeals during project review. Answering the following questions will aid these boards in determining potential impacts to open space and the environment.

- Is the proposed development consistent with the goals and objectives of the Comprehensive Plan?
- Are there any known rare and endangered plant or wildlife species or habitats on or adjacent to the proposed development site?
- Is part of the development site in a wildlife corridor?
- Could the impact on plant and wildlife habitat be reduced through a different design or siting?
- Are there wetlands on or adjacent to the site proposed for development?
- Are minimum distances of proposed buildings, on-site septic systems and wells from wetlands met?
- Could the development have an impact on groundwater supplies or quality?
- Is filling, dredging, or drainage of part or all of a wetland proposed?
- Is there a wetlands mitigation plan?
- Will stormwater runoff from the project affect nearby wetlands? How will this be mitigated?
- Has all necessary state or federal permits been obtained?
- What is the area of tree cover on the site?
- What harvesting rates and practices are planned for the forestry operation?
- Will new roads be built or existing roads widened? What measures will be taken to reduce erosion potential?
- What are the land uses on adjacent properties?
- What will the impact on water quality and supply be?
- What will be impacts to wildlife and recreation and how will this be mitigated?
- Are there planned buffer strips along streams, roads, or property lines? Is there planned woodland retention and replacement?
- What is water drainage of the site and how has stormwater runoff been addressed?
- How will vegetative cover, wildlife habitat, and productive farm and forestland be affected?
- Could the development affect any rare or endangered plant or animal species, sensitive wildlife habitat, or hunting and fishing areas?
- Would the development affect any scenic views or unique land forms?



## **Appendix D. Definition of Peru's Open Space Resources**

This Plan identifies major resource categories whose protection is a matter of concern in Peru. These categories and their subcategories identify all of the various types of resources that should be the subject of conservation attention. Each represents a discrete resource serving a separate function. These resource categories are adapted from the ranking system included in the New York State Open Space Plan (2006).

**Recommendation:** The Town of Peru should, with assistance from data and maps from this Open Space Plan, consider the following resources and work to protect them during project review in the future:

**Water Resources** – Aquifer recharge areas and watersheds that contribute to a public water supply.

**Significant Ecological Areas** – these are lands characterized by the presence of sensitive plant species and/or plant communities, or animal species and/or animal communities, or other natural and cultural resources which require special management considerations or protection for the preservation of the resource. Significant ecological areas within Peru include:

**Exceptional Forest or Plant Community:** Peru should ensure protection of forested habitats, especially along streams in the eastern and central part of Town. These areas serve as important links to the western, less developed area of Peru, and are important to maintaining the ecological health and biodiversity of Peru.

**Shoreline Areas:** Shoreline Protection areas contribute to the protection of fish and wildlife values, scenic resources, and water quality of Lake Champlain. Most of Peru's shoreline is either already developed or protected. However, the Town should pay particular attention to development that would negatively impact wildlife connections and water quality between interior portions of the Town and Lake Champlain.

**Wetlands:** Wetlands preserve freshwater wetlands as defined in Article 24 of the ECL. Wetlands may include adjacent upland necessary for the viability or management of the wetland. Freshwater wetlands are valuable natural resources which provide flood protection and function as natural water purifiers. Wetlands provide critical habitats for a variety of fish and wildlife species, including endangered and threatened species as well as migratory species. Proposed stream corridors also protect the majority of wetlands outside the Adirondack Blue Line.

**Wildlife Habitat:** These are lands that habitats for many wildlife species that have specific habitat needs, particularly those that are endangered, threatened or rare. Many of these areas are rare in occurrence. The perpetuation of specific fish and wildlife species is dependent upon the protection of the few sites where these habitats are

found. It also is important to protect good quality sites: 1) where species have been extirpated but the potential for their restoration still appears feasible, or 2) that are important to critical life stages of specific migratory species.

**Biodiversity:** Biological diversity or biodiversity refers to the variety of life forms including the different plants, animals and microorganisms, the genes they contain, and the ecosystems they form. Biodiversity considers the variety of living species; the genetic information contained in the individual plants, animals, and microorganisms; and the variety of habitats, biotic communities, and ecological processes, including the diversity present within ecosystems in terms of habitat differences and the variety of ecological processes. This is a significant resource because of Peru's varied landscapes and habitats ranging from shore line, agricultural fields, and mountainous forests. The intent should be to acknowledge cumulatively the critical interaction of the various habitats and land features in Peru with each other and the resulting natural resource/biological benefits derived thereof.

**Trailways & Greenways:** Recreationways and stream corridors connect open space and natural resource areas, conserve irreplaceable scenic and cultural resources, and accommodate a variety of trail uses, water-oriented recreation, and other forms of recreation. Peru has many different types of trails that should be recognized and maintained during future development.

**Working Landscapes:** Farmland provides multiple resource values to their owners and to the people of Peru. Prime agricultural soils are themselves valuable and vulnerable resources. Farms contribute significantly to Peru's economy and are a significant contributor to its rural character. A goal should be to protect the largest mass of farmland over time as possible. Peru has a critical mass of farmland located in the central part of Town and conservation efforts of these working landscapes should be concentrated here.

**Scenic Resources:** Scenic areas in Peru show outstanding views: looking west towards the mountains and east towards the open agricultural lands, Lake Champlain, and Green Mountains. Impacts on views from public areas and roads should be carefully evaluated during project review.

## Appendix E. Recommended Zoning Changes to Implement Open Space Goals

In January 2008, the Town of Peru began work on updating the Town zoning law to incorporate recommendations made by the 2006 Comprehensive Plan. Some of the open space related recommendations called for in that Plan have already been incorporated into that draft. Other zoning recommendations are detailed in this strategic plan as follows:

1. Goal 7, Objective A related to protecting floodplains and enhancing soil erosion and sediment control. Proposed sections 321 and 329 address this strategy. Consider adding the following:

*Add to Section 321: No structures shall be constructed on that portion of a parcel that is within the mapped 100 year floodplain, except for agricultural structures.*

2. Goal 7, Objective B related to enhancing review of projects to ensure wildlife habitats and ecologically sensitive lands are protected. Consider adding the following:

Add to Section 401.1 (f):

*(f) Sensitive environmental areas, active farms, critical wildlife habitats, and open spaces will be protected and maintained and remain vital components to the distinctive character of Peru; and*

Add Section 401.4 (17)

*A. All development requiring site plan approval shall protect plant and animal habitats to the maximum extent practical. Methods to accomplish this include, but are not limited to the following:*

- 1. Maintaining buffers between areas dominated by human activities and core areas of wildlife habitats such as un-fragmented woodlands;*
- 2. Facilitating wildlife movement across areas dominated by human activities by incorporating into any development design undisturbed areas of vegetation in the form of wildlife travel corridors or “steppingstones” between habitat patches;*
- 3. Mimicking features of the natural local landscape in developed areas; and*
- 4. Identifying areas within the parcel containing features to be conserved including but not limited to: wetlands, streams, un-fragmented woodlands, hedgerows, and important micro-habitats that may be present, and locating development away from these areas.*

3. Goal 7, Objective B related to offering density bonuses and other incentives to protect core wildlife areas and sensitive ecological areas.

Add Section 406: Incentive Zoning

*A. Purpose. Pursuant to §261-b of the New York State Town Law, the Town of Peru hereby establishes a system of zoning incentives to advance the Town's specific environmental policies in accordance with its adopted Comprehensive Plan. As set forth below, the Town Board has established procedures for the proper application of incentive zoning as set forth in this section.*

*B. Community benefits and incentives. An applicant that has submitted a residential subdivision, special use permit or site plan application may apply for incentives to achieve community benefits or amenities as listed herein. The community benefits and amenities listed below are not intended to be listed in any particular order of importance or priority.*

*(1) Open space. For properties located in the XXX Districts, a residential density bonus may be granted for the preservation of open space that exceeds the fifty percent (50%) requirement for a conservation subdivision. For every 10% of land set aside as open space, a five percent (5%) residential density bonus may be approved. The residential density bonus granted for the protection of open space/agricultural land preservation shall not exceed fifteen percent (15%).*

*(2) Public Access and recreation. For properties located in the XXX Districts, a residential density bonus may be approved for the creation of public recreational lands or trails, public access to streams, or open space land, or for the provision of public fishing/hunting rights. A residential density bonus not to exceed thirty percent (30%) may be approved.*

*(3) Critical Wildlife Habitat Protection. For properties identified by the New York State Natural Heritage Program as having a critical or rare habitat or species, a residential density bonus may be approved not to exceed 25%.*

*(4) No incentive shall exceed thirty percent (30%) of the total dwelling units proposed in the application.*

*(5) As a condition of approval, the Town Board may require that the bonus units be commingled with non-bonus units, contain the same number of bedrooms as the non-bonus units, and be compatible with the design of non-bonus units in terms of appearance, materials, and finish quality.*

*(6) Community benefits may be accomplished by:*

- (a) Use of permanent conservation easements.*
- (b) Donations of land in fee simple for conservation and other community benefit purposes.*

*(7) Incentives are not permitted for applications that propose nonresidential uses.*

*(8) The amenities or community benefits shall be in addition to and not in lieu of any other improvements or amenities otherwise required pursuant to any other provisions of this Zoning Law, and/or any other land use regulations of the Town, the provisions of the New York State Environmental Quality Review Act (SEQRA) and the regulations there under and the provision of other applicable New York State laws including, without limitation, Article 16 of the Town Law, all as any of these provisions now exist or as they may be amended from time to time. Incentives shall be granted only when the community benefits or amenities offered would not otherwise be required or likely to result from the applicable regulatory permitting/approval process before the Planning Board and/or Town Board and/or any other federal, state or local regulatory agencies. Additionally, incentive zoning shall not be a substitute, in whole or in part, for any other conditions or requirements of a conservation cluster subdivision pursuant to other applicable laws and regulations. Notwithstanding, incentive zoning may apply in addition to any such conservation subdivision conditions or requirements.*

*(9) The community benefit may be located on-site or off-site of the property to which the incentive would be applied.*

*(10) No residential units, bonus or non-bonus, shall be located within the area or negatively impacting the area identified for protecting access, open space, or critical habitats.*

### ***C. Procedures and criteria for approval of incentives.***

*(1) Submission of application. Applications for utilization of incentive zoning shall be submitted simultaneously to the Town Board and to the Planning Board. An applicant is encouraged to present its plans to the Town Board as early in the process as possible. The Town Board may schedule an informal workshop to discuss the incentive application and share information between the applicant, the Planning Board, the Town Board and the public.*

*(2) Narrative statement. A narrative statement shall be submitted with the following information:*

- (a) A description of the incentive being requested.*
- (b) A description of the community amenity or benefit being offered to the Town.*
- (c) A current estimate of the market value of the proposed benefit.*
- (d) A preliminary indication that there is adequate wastewater treatment, water supply, transportation facilities, waste disposal, and emergency service protection*

*facilities in the zoning district in which the proposal is located to handle the additional demands the incentive and amenity, if it is an on-site amenity, may place on these facilities beyond the demand that would be placed on them as if the district were developed to its fullest potential.*

*(e) An explanation as to how the amenity helps implement the environmental policies of the Town of Peru Comprehensive Plan.*

*(3) Authorization of the utilization of incentive zoning to a specific property is subject to approval by the Town Board prior to the grant of preliminary plat or preliminary site plan approval by the Planning Board. Applicants may seek non-binding input from the Town Board as to whether the proposal is worthy of consideration prior to the application or at any stage of the application process prior to the formal report issued by the Planning Board pursuant to subsection (6) below.*

*(4) Applications for incentive zoning shall be processed concurrently and with the same procedures applicable to subdivision/special permits/site plan approvals as set forth in this Zoning Law and the subdivision regulations of the Town of Peru.*

*(5) All applicable requirements of the State Environmental Quality Review Act shall be complied with as part of the review and hearing process before the Planning Board.*

*(6) Prior to granting approval of the preliminary plat or site plan based on an incentive proposal but after at least one public hearing has been held, the Planning Board shall issue a report regarding the incentive zoning to the Town Board. The Planning Board's report shall include the following:*

*(a) The Planning Board's recommendations regarding the proposal, including an evaluation of the adequacy with which the benefit and incentives fit the site and how the development relates to adjacent uses and structures.*

*(b) a SEQRA Negative Declaration or Findings Statement establishing that the proposal will not have a significant impact on the environment;*

*(c) an assessment that adequate water supply, wastewater treatment, transportation, waste disposal and emergency protection facilities exists to serve the development, and that such development will not substantially and deleteriously impact upon the future development of adjoining properties;*

*(d) a statement that the benefit would not otherwise result without the granting of incentive zoning.*

*(7) Within 45 days of receipt of the Planning Board's report, the Town Board shall hold a public hearing on the incentive zoning application. Notice of the hearing shall be published in the official newspaper at least ten (10) days prior to the date of the hearing. The Town Board may provide for further notice as it deems appropriate.*

*(8) Prior to rendering a decision, the Town Board shall evaluate the impact of the provision of such system of zoning incentives or bonuses upon the potential development of affordable housing gained by the provision of any such incentive or bonus afforded to an applicant or lost in the provision by an applicant of any community amenity to the town. Further, the Town Board shall determine that there is approximate equivalence between potential affordable housing lost or gained or that the town has or will take reasonable action to compensate for any negative impact upon the availability or potential development of affordable housing caused by the provisions of this section.*

*(9) The Town Board shall render its decision within 45 days of the close of the public hearing. In no case, however, shall the Town Board be compelled to approve any aspect of this incentive zoning as such approval rests within the Town Board in its sole and absolute discretion. The Town Board may approve, approve with modifications or disapprove the incentive zoning application. Failure to render a determination within said 45-day period shall be deemed to be a denial. To approve incentive zoning, the Town Board shall determine that the community benefit provides sufficient public benefit to provide the requested incentive.*

*(10) After the Town Board has rendered a decision, the record of decision shall be referred to the Planning Board for preliminary and/or final approval of the application with or without incentives, as prescribed by the Town Board.*

*(11) The Town Board may engage a consultant to assist in review of the application, the cost of which will be borne by the applicant.*

*(12) Compliance with SEQRA. All applicable requirements of the State Environmental Quality Review Act shall be complied with as part of the review and hearing process. If a generic environmental impact statement has been prepared by the Town Board in enacting or amending this section, the application will pay a proportionate share of the cost of preparing such impact statement.*

Create new Section 221 as follows to make the Town zoning consistent with Adirondack Park Agency requirements: Currently, the RL-1 district extends into the Adirondack Park and establishes development densities that are not consistent with the Rural Use designation of the APA. That requires an 8.5 average density for new housing development. To rectify this, consider changing the designation of lands within the Adirondack Blue Line that are currently RL-1 to “Adirondack Rural” by adding:

*Section 221: Adirondack Rural District*

- a. The minimum lot size per family shall be 8.5 acres.*
- b. All other dimensions and requirements of the Agriculture/Rural (AR) district shall apply to development within the Adirondack Rural District.*

4. Goal 3, Objective B related to reducing allowable residential development densities via a conservation overlay zone. There is a very close overlap between the stream and river corridor and the existing RL-2 zoning district. It is recommended that the RL-2 district be eliminated and replaced as follows with the stream and river corridor overlay. Any lands not included in the mapped overlay should be changed to Agriculture/Rural (AR).

Replace Section 213 (January 2008 Draft) (Rural Lands) as follows:

*Section 213: Stream and River Corridor Overlay Zone*

- a. *No structures or lot disturbances, except for agricultural related uses shall be allowed within the mapped stream and river corridor.*

5. Goal 8 related to ensuring the zoning is farm friendly and allowing a variety of agricultural uses. See January 2008 of Draft Zoning which includes these standards.

6. Goal 8 related to including a modified site plan review for farm structures based on the New York State Department of Agriculture and Markets guidance documents.

Add to Section 401.3 the following:

*A. Modified Site Plan Process for Agricultural Structures*

*This modified site plan review process shall be followed for all new structures or significant expansion of farm structures but shall not include non-structural changes to the property. All agricultural retail operations subject to site plan review shall follow the procedures of Section 401 of the Town of Peru Zoning Law. The applicant for an agricultural site plan review and approval shall submit the following:*

- 1) Sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements or rights-of-way and roadways. Show the existing features of the site including land and water areas, water or sewer systems and the approximate location of all existing structures on or immediately adjacent to the site.*
- 2) Show the proposed location and arrangement of buildings and uses on the site, including means of ingress and egress, parking and circulation of traffic.*
- 3) Provide a description and general sketch of the structure and a description of the project and a narrative of the intended use of such proposed buildings or structures, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes. Include the name and address of the applicant and any professional advisors. If the applicant is not the owner of the property, provide authorization of the owner.*



*4) If any new structures are going to be located adjacent to a stream or wetland provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the property.*

*B. This process shall generally not require professional assistance (e.g., architects, engineers or surveyors) to complete an agricultural site plan review. The Planning Board is authorized to require submission of a survey, architectural or engineering plans as may be necessary.*

*C. Time Frame for Review and Decision. The Planning Board may hold a public hearing. A decision shall be made on the agricultural site plan review within 45 days from receipt of a complete application or within 45 days of a public hearing.*

7. Goal 8 related to ensuring that the zoning reflects NYS Agriculture and Markets law requirements for notification, disclosure, and evaluation of impacts of projects on agriculture. See January 2008 of Draft Zoning which includes these standards.

8. Goal 8 related to providing for use of conservation subdivisions. See Draft Section 403 of the January 2008 Draft Zoning which includes these standards and processes.

9. Goal 8 related to creation of an agricultural overlay district.

See Agriculture and Critical Farmland Map. Draft language to protect agriculture has been included in the January 2008 Draft Zoning. In addition, consider establishing an Agricultural Overlay District that corresponds to the core farming areas identified in this Plan. Consider adding:

*Zoning Section 222 Agricultural Overlay District*

*A. All major subdivisions within the Agricultural Overlay District shall be designed as a clustered or conservation subdivision with a minimum of 65% of the parcel permanently preserved as open space.*

*B. Prime farmland soils found within in this overlay shall be considered part of the primary environmental features to be preserved during a clustered or conservation subdivision to the maximum extent practical.*

10. Goal 8 related to renaming zoning districts, changing density in the RL-1 District, and establishing density controls instead of reliance on minimum lot sizes. See January 2008 of Draft Zoning which includes these standards.

11. Goal 8 related to requiring a buffer between new residential development and agricultural lands. See January 2008 of Draft Zoning which includes these standards.