

## Chapter 3.0

# LAND USE and DEVELOPMENT CONTROLS

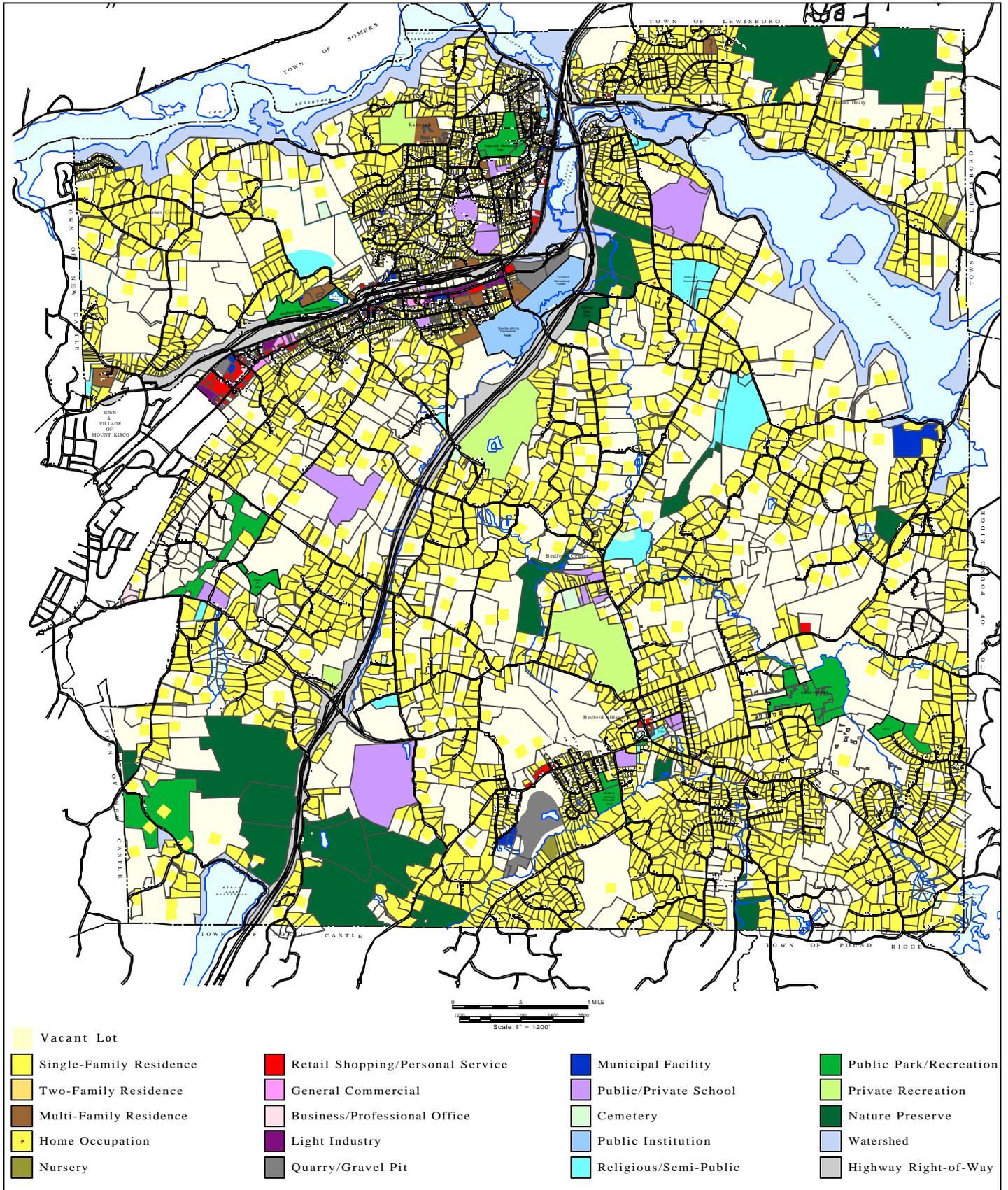
### 3.1 Bedford's Changing Character

Bedford is geographically the second largest town in Westchester County, with a total area of approximately 39.5 square miles, or 25,280 acres. A little more than 5% (approximately 1,320 acres) is covered by water, leaving 23,960 acres of actual land area. Bedford is home to the three unincorporated (not self-governing) hamlets of Katonah, Bedford Hills, and Bedford Village. A fourth development area has burgeoned as a business strip along Route 117 between Mount Kisco and Bedford Hills.

Bedford's pattern of diverse development densities and a mix of land uses was set as planning policy by the town eighty years ago when the first zoning ordinance was adopted in 1921. That code recognized the town's traditional quality, and all revisions since have sought to blend continued development of private property with the public interest of shaping development within an established framework. The 1988 Town Development Plan noted that Bedford has a long history of planning for its future. As early as 1949, Bedford joined with Pound Ridge, Lewisboro, North Castle, Somers, and Mount Kisco in a joint planning program. The first town comprehensive plan was completed in 1960, followed by updates in 1972 and 1988. The major concerns in these previous plans involved population increases, traffic increases, water quality in the hamlets, and desirable development within a framework. Since the drafting of the 1988 plan, development pressures of all forms are now more pronounced and visible. Bedford is no longer on the edge of the metropolitan area; it is now experiencing the pressures of a suburbanized town well within commuting reach of New York City.

An analysis of land and its use is one of the major research elements necessary in preparing a town development plan. For any planning purpose, it is important to know where and how much land is presently developed for residences, businesses, recreation and other uses, and how much land is undeveloped. The land use analysis is based on a field survey completed in 1983, updated in 1987, and recently updated in 2000. The results are shown on the Existing Land Use Map. (See Figure 3.1.) Bedford's existing developed areas help residents visualize future desirable and undesirable land use patterns, and provide a foundation for the planning objectives and policies guiding future development. This chapter analyzes existing land uses and the development controls that Bedford has over future development and makes recommendations on how these controls might be strengthened.

Twenty to thirty years ago, the major land uses in the town were predominantly natural in form, being water systems of reservoirs, wetlands, rivers, streams, and brooks, trees, rocky outcroppings, open lands with scattered residences, hamlets, and town facilities such as offices and schools. Today the natural landscape has been altered by new residences and commercial development. With these have come increasing traffic volumes on the interstate, state, and local road network, retail intensification in Katonah and along Route 117, and large parking areas. The changes over the decades, while incremental, seem very visible and disturbing to residents. Some of these significant changes are wider roads, deeper residential setbacks, curbs, expansion of hamlet retail



Town of Bedford Comprehensive Plan  
Town of Bedford, NY

Figure 3.1  
Existing Land Use (as of April 2000)



areas, proliferation of signs, and tree removal in rights-of-way. While Bedford has few or no office parks, multi-family structures, shopping centers, and industrial parks, the traditional land uses have intensified. At the time of the 2000 census, there were 6,020 housing units. This is an increase of one-half of one percent, or only 33 units were added since the 1990 census count of 5,987 dwellings. This small increase cannot explain why Bedford residents feel that the town is approaching its maximum desirable development. However, longtime Bedford residents will remember the dramatic increases in housing stock during the 1960s (27%), the 1970s (10%), and the 1980s (21%). Many residents remember an older Bedford but live in a landscape that has changed.

In March 2000, an opinion survey was published that found that 78% of the respondents agreed that there was a loss in community character as new homes replace undeveloped land. The survey was conducted under town government auspices and was based on a scientific sample of the community. This proportion holds true regardless of years of residence in Bedford, age groups, place of residence, public or private school for the respondent’s children, and school district. However, only 25% felt that this was the most important issue for Bedford; somewhat more felt that rising property taxes were a greater issue. When this question was phrased as doing “whatever it takes to keep the community character unchanged,” 61% of the respondents agreed and 65% felt that “what it takes” is the acquisition of undeveloped land.

### 3.2 Bedford’s Population

The heart of a town is its people, and much can be told from the characteristics of present and past populations living in a community. This section presents the 2000 Census data currently available from the U.S. Department of Commerce. This plan was written as data were released on general population, household, and housing characteristics; more detailed data were not yet available. The following discussion identifies changes in Bedford’s population over the past ten years, and indicates sources of development pressure and housing need.

#### Population

The 2000 Census data show that the town’s population grew since the last census, as it has for all recent decades (except for the decennial 1970 – 1980, when there was a one percent decline, a decrease of 172 persons). In 1990, Bedford had 16,906 persons. This grew 7.3% to 18,133 persons in 2000, a faster rate of change than Westchester County (5.6%) However, much of this increase was probably created by the Correctional Facility. The population in group quarters (a category that includes, among other types, prisons) grew 26% from 1,566 to 1,973 persons between 1990 and 2000, while the population living in households (both family and non-family) grew just 5.3%, from 15,340 to 16,160 persons. The data below show how quickly Bedford’s population has grown since 1900:

<b>Population, Town of Bedford</b>			
<b>Year</b>	<b>Population</b>	<b>Population Increase</b>	<b>Percent Change Over Prior Period</b>
1900	2,772		
1920	4,020	1,248	31%
1940	6,807	2,787	41%
1960	11,768	4,961	42%
1980	15,137	3,369	22%
2000	18,133	2,996	16.50%

## Households

The town's population generally lives either in family households, non-family households, or in group quarters. According to the Census Bureau, household populations include families (family households) and non-family households where non-related individuals share a residence or single persons live alone. Family households are those with two or more persons living as a housekeeping unit where all are related by marriage, birth, or adoption. Group quarters are defined as a place where people stay other than the usual house, apartment, or mobile home. The general types of group quarters are institutional (for example, nursing homes, hospitals and prisons) and non-institutional (for example, college dormitories, military barracks, group homes, shelters, missions, and single room occupancy hotels).

The majority (16,160 persons or nearly 90%) of the town's population lived in one of Bedford's 5,731 households. Most of the households (77% or 4,395) were family households, comprising a population of 14,126 persons. In 2000, the average family size in Bedford was 3.21, the same as the county overall, and the average household size was 2.82 persons. More than half the family households have a head of household ("householder") who is younger than 55. Of family households, 528 (12%) have single heads-of-household.

Bedford's non-family households are different in a few significant ways from the town's families. Of the 1,336 non-family households, 81% (1,078) are single persons living alone and most of these (63%) are female householders. Single person households constitute nearly 19% of all households, a surprising fact given the strong suburban family orientation of the town. The age of household head for non-family households is much older than for families: half the non-family households are headed by someone 55 or older. The differences lessen some with age. Of family households, 231 are householders 75 years old and more; in non-family households, Bedford has 277 such householders.

## Housing

In 2000, Bedford had 6,020 housing units of which 5,731 (95%) were occupied. Three-quarters (4,287) of the occupied housing units were owner-occupied and 1,444 were renter-occupied. There were 289 vacant units, about half of which (51%) were not for rent or sale, but used seasonally, recreationally, or occasionally, and four were designated for migrant workers. The average household size in owner-occupied housing was larger than in renter-occupied housing, 2.96 to 2.40 persons. In owner-occupied housing, 64% of the households are 1- to 3-person households. In renter-occupied housing, this proportion increases to nearly 79 percent.

The following data are offered as a potential indicator of need for housing assistance; however, only when the U.S. Census releases data on income, poverty and housing value can the actual need be verified. In 2000, Bedford had 59 male householders and 190 female householders 65 years old and older living alone in their own homes. There were 43 male and 144 female senior citizen householders living alone who were renters. These latter 187 may be at the most risk, having reached retirement age, and having no equity in the house they occupy and no one living with them who might provide financial stability. There were also senior citizens who were single householders whose family lives with them: Bedford had 16 male householders age 65 and older with no wife present and 73 female householders with no husband present and yet who had children or other family members living with them in their owner-occupied units. There were 14 such women in the renter-occupied category, and no men.

### 3.3 Development Issues and Recommendations

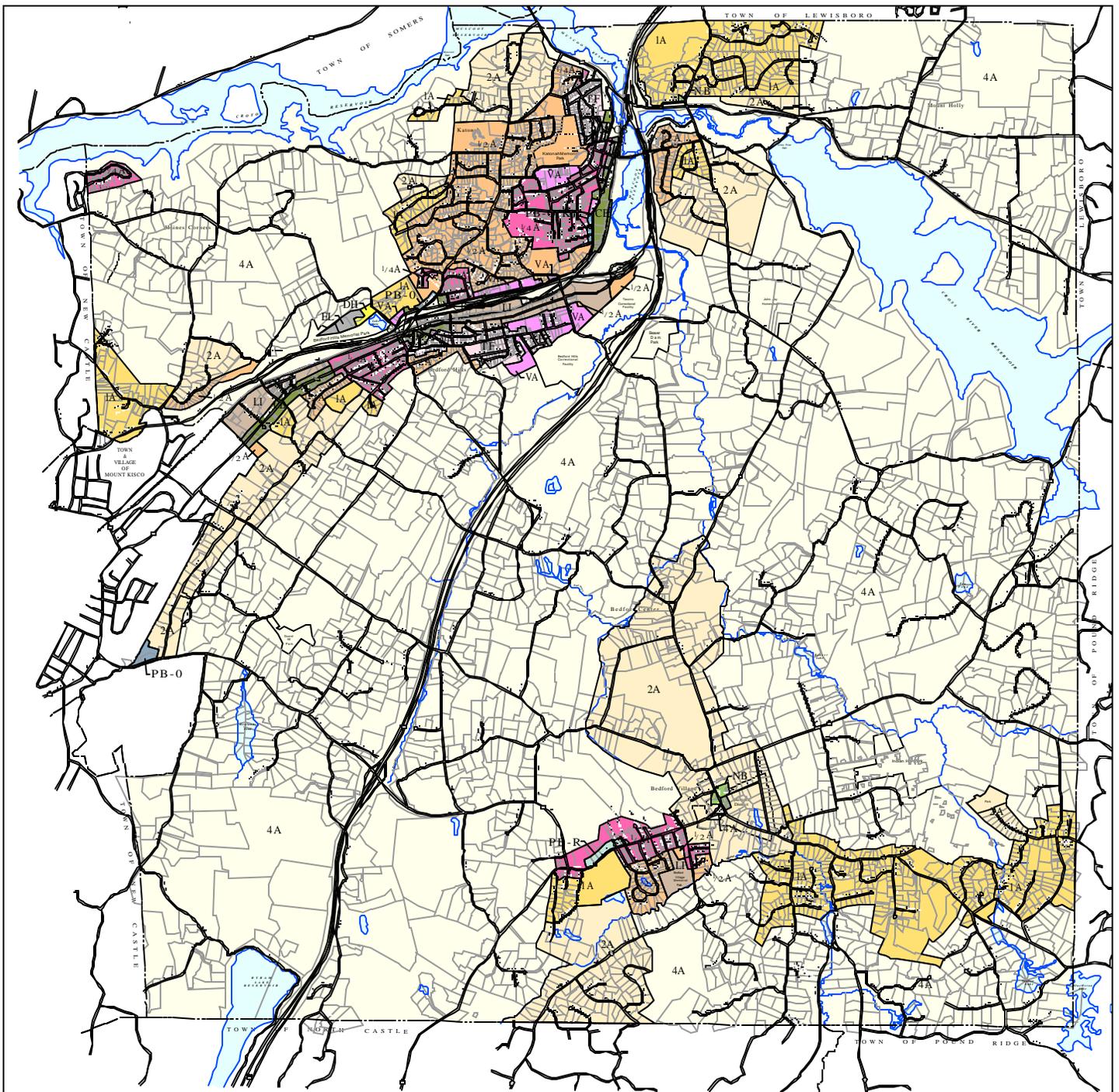
Bedford's undeveloped, residentially zoned land is attractive to new home builders and will likely remain so, absent significant market changes. Construction on land with environmental constraints, housing construction, especially of large homes visible from the road, and increasing traffic all contribute to Bedford's sense of overdevelopment outside its hamlets. The impacts from continued residential development might comprise a change in community appearance and character, higher amounts of traffic and congestion, increased school enrollments, consumption of the natural environment, and loss of affordability in the community's housing stock.

Bedford also has to ensure that development within the town borders does not compromise the drinking water supply for its own residents and for people living outside Bedford. The town is steward of lands within three watersheds that supply potable water from surface water supplies, e.g., reservoirs and lakes. These are the New York City Croton watershed, the Byram River watershed (feeding Byram Lake and supplying all of Mount Kisco's water), and the Mianus River watershed. Bedford's own potable water supply primarily is drawn from groundwater sources, and some residents are served by Byram Lake. These sources are protected by the town's aquifer protection zone and performance standards, the State Environmental Quality Review Act (SEQRA), and the town's wetlands laws.

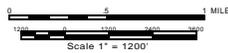
#### Zoning

Bedford is divided into eighteen zoning districts that control the basic form of the built areas of the town, by controlling the size of the developed land area and building bulk. (See Figure 3.2.) The zoning ordinance works in tandem with the subdivision ordinance, which controls the division of large parcels into new, smaller, and separately owned parcels. Bedford also relies on a wetlands ordinance, a steep slopes ordinance, an aquifer protection zone, flood drainage protection regulations, a tree preservation ordinance, town-designated Critical Environmental Areas, and a historic district ordinance to shape new development and control the impacts on natural features. These basic controls are supplemented with regulations on accessory uses and structures, performance standards, off-street parking, signs, and special uses. Further, the New York City Department of Environmental Preservation (NYCDEP) exercises substantial control over development through its exercise of regulations protecting the Croton Watershed.

While Bedford is primarily zoned for low-density residential, its zoning policy has allowed a limited amount of higher density and multi-family residences and non-residential uses (commercial and industrial) in appropriate areas. Bedford has augmented its traditional land use pattern with two districts that are new since the 1988 Town Development plan. These zoning districts exist in the text of the zoning code and are mapped on the official zoning map when needed for site development. The EL Housing for Elderly district is intended to increase housing opportunities for the town's elderly population who are on limited or middle-incomes. The special DH Diversified Housing district is intended to increase housing opportunities for town residents who cannot afford to purchase a home on the open market. Bedford's Blue Mountain Housing Corporation coordinates housing development in these two districts, as part of its mission to provide affordable housing in town.



NOTE:  
FOR ACCURATE DETAILS AND DIMENSIONS, REFER TO THE  
OFFICIAL ZONING MAPS IN THE OFFICE OF THE TOWN CLERK



	R-4A	Residence Four-Acre District		VA	Residence Village Apartment District		PB-O	Planned Business-Office District
	R-2A	Residence Two-Acre District		MF	Residence Multifamily District		PB-O(K)	Planned Business-Office District (K)
	R-1A	Residence One-Acre District		EL	Housing for Elderly District		PB-R	Planned Business - Retail District
	R-1/2A	Residence One-Half-Acre District		DH	Diversified Housing District		NB	Neighborhood Business District
	R-1/4A	Residence One-Quarter-Acre District		RO	Research Office District		CB	Central Business District
	TF	Residence Two-Family District		RB	Roadside Business District		LI	Light Industrial District

**Town of Bedford Comprehensive Plan  
Town of Bedford, NY**

**Figure 3.2  
Consolidated Zoning Map, 1994**



## Residential Land Use Controls

The zoning ordinance controls land development within the ten residential districts using a number of restrictions. These are minimum lot area and minimum lot area per dwelling unit, minimum effective square side, minimum yard requirements, maximum height, maximum land coverage by all principal and accessory buildings, maximum amount of impervious surface, and minimum cubic feet. For some districts a maximum building length is also employed. The Planning Board exercises subdivision control over single-family home developments and site plan control over multi-family buildings. The effect of these controls working together is to control site layout, building lots, structures, and the placement of structures on a site or lot. Relief from these controls may be granted, as a variance, by the Board of Appeals.

Bedford has strict dimensional requirements in place fixing lot, area, setback, and height minimums and maximums. Despite these, there are recently built houses that appear too large for their lot or for their neighborhood, or in some way are too visible. Such bulky houses are most apparent when they are new construction on a previously vacant lot within a built-up neighborhood; this is called an infill lot. Houses on infill lots or in the town's small lot districts may appear large because they are new and visible, and they may indeed be larger than surrounding older houses which are underbuilt according to zoning. In the two-acre districts in Bedford, bulky houses are a growing annoyance to residents as they can be seen from the road and adjoining properties (more so than in the four-acre districts, where houses can be placed deep within the lot). The lots can also support a number of accessory buildings, which add to the visual bulk, amount of impervious surface, and sense of crowding in the neighborhood.

**Recommendations.** The plan makes the following series of recommendations for changes to Bedford's residential land use controls.

**Floor Area Ratio.** The Town Board should consider adopting a residential floor area ratio (FAR). This would limit the aggregate floor area of all structures on a parcel to a percentage of the lot size. This new control would be added to the existing controls, without requiring the elimination or alternation of existing controls. The zoning code should contain a statement on the application of a floor area ratio to existing buildings subject to a subdivision process. For example, if an estate is subdivided and the original primary building remains, that building (and its accessory buildings) cannot exceed the FAR for the district. In effect, the lot containing the estate building shall be sufficiently large to accommodate the building, even if the subsequent lot is larger than the minimum lot size for the district.

**Height.** In the R-4A district, the current table of dimensional requirements allows a structure to reach a maximum height of 45 feet or three stories. The plan recommends that this be reduced to 35 feet or 2 and one-half stories, making this requirement identical to that found in the other residential districts. A footnote should be placed in the table of dimensional requirements stating that in the R-4A district, any one elevation shall not exceed 40 feet. This will enable the property owner to build on a slope without requiring substantial regrading of the home site.

**Tennis Courts.** At present, Bedford treats tennis courts as buildings with respect to calculating the maximum allowed building coverage on a site. In nearly all cases, the construction of a tennis court requires the owner to obtain a variance from building coverage limits from the Zoning Board

of Appeals. If the town adopts residential floor-area-ratio controls, the plan recommends that a footnote be added to the table of dimensional requirements stating that tennis courts shall be included in the calculation of impervious surface and not building coverage. The existing impervious coverage maximums are sufficient to allow the addition of tennis courts in enough cases that the volume of variance requests to the Zoning Board of Appeal could be reduced. The town may need to study with the Zoning Board of Appeals how to regulate tennis courts to determine the best approach given the demand for tennis courts, their impact on stormwater management, the need for variances, and other considerations. Further, the zoning code should state unequivocally that tennis courts shall not be permitted in front yards and that courts are required to meet building setbacks. The code should require screening shrubbery and the elimination of solid backstops.

**Recreation District.** One of the town goals is the preservation of community character through open space preservation. In Chapter 5.0, specific recommendations are made regarding the creation of land permanently removed from the realm of development, known as open space. The golf courses in town are not open space in the sense of undeveloped land, but nonetheless are critical to the sense that the town has large green vistas and visual breathing room. Both golf courses, in addition, have come through review by the Wetlands Control Commission, for planning changes in ponds and other watercourse. The golf courses are also regulated by Aquifer Protection Zone and by watershed regulations on pesticide use and drainage issues.

This plan recommends that the town adopt a new zoning district that allows golf courses or other recreation as the sole permitted use. These other uses may be tennis courts, riding stables, and other club-type activities with accessory housing for employees. During the planning process, this action was weighed against upzoning the golf course parcels (and perhaps others). Upzoning would increase the permitted minimum lot size to something greater than four acres. This would reduce the overall number of new housing units, if the golf course use were abandoned, that could be constructed. But upzoning would not provide in return a substantial public good, such as true open space.

If this action is implemented, the zoning code will be amended to create a recreation district



Bedford Golf and Tennis Club.

where a golf course or other recreation is the only permitted use. Such recreation would only be allowed where it exists now, unless a parcel is rezoned to the Recreation District. The zoning map should be amended so that each golf course in the town is fully contained within the new recreation district. The affected golf courses would be Glen Arbor, Bedford Golf and Tennis, and the proposed Seven Springs. Any new proposed golf course or recreation activity would first require a rezoning of the subject property. As part of SEQR and site plan review for any proposal in a Recreation District, the Planning Board should establish an environmental monitor, employed by the town who would oversee the club's turf management practices, especially with respect to water usage, water quality, drainage, and use of pesticides, herbicides, fungicides, and any other chemical applications.

**Applications.** Bedford should require that site plan or subdivision applicants show on their preliminary and final plans where the actual building footprint will be sited on each lot. Further, the town should consider revising existing town law to provide that no permitting board or commission (i.e., the Town Board, Planning Board, Zoning Board of Appeals, and Wetlands Control Commission) shall approve an application or plan submitted to it in the event that there exists an uncured violation of town law.

**Conservation Development.** Bedford's conservation development provision ("clustering") in its zoning regulations enables a developer who is subdividing a property to reduce lot sizes in order to preserve natural and scenic qualities of the site. At present, the applicant must get Town Board approval to cluster; the Town Board then directs the Planning Board to review the subdivision as a conservation development. Bedford should consider authorizing the Planning Board to both encourage and mandate conservation developments. As the underlying zoning of the land does not change with a conservation development, the application would not need to first get approval from the Town Board.

**Special Permits.** Bedford's zoning code allows certain land uses by special permit in certain residential districts. The requirements are not clearly detailed in the zoning code. Also, there may be land uses allowed by special permit that should be as-of-right and others that should not be permitted at all in the town. The town should study the issue of special permits in a comprehensive manner: what land uses should be allowed by special permit, which districts should they be allowed in, what should the criteria be for obtaining a special permit, and which municipal board should grant special permits.

## **Commercial and Industrial Land Use Controls**

Development within the commercial and industrial districts is controlled by dimensional requirements governing lot area, effective square side, yards, height, coverage, and floor area ratio. Each individual development application is subject to site plan approval by the Planning Board, during which approval process the Planning Board can exercise a form of architectural review by requesting elevations or renderings of the proposed project. In addition to zoning controls, the Planning Board relies on the review and approval efforts of the Wetlands Control Commission and its own administration of the Aquifer Protection Overlay District to ensure good quality non-residential development.

There are very few vacant lots remaining in nonresidential districts. On Route 117 in recent years,

two such lots were developed in a way that demonstrated the Planning Board's control over site plan design. In contrast to the established pattern on the highway, the principal buildings are located close to the roadway, with parking to the side. These parking lots have landscaped islands.

Bedford has supplemental regulations in place within the zoning ordinance to control parking lot design, landscaping in parking lots, lighting, signs, and to examine proposed building elevations in site plan review. On older sites, the Planning Board has the ability to review these elements when a new use or expansion is proposed and becomes subject to site plan approval. Over time, it can be expected that the appearance of parking areas will improve as the Planning Board exercises this control.

**Recommendations.** Bedford's greatest need for improved commercial development and design centers on Route 117. See Chapter 6.0, Business Development for recommendations specific to the design of the Route 117 commercial corridor and the other business areas.

In addition, the issue of special permits (discussed above under Residential Land Use Controls) pertains to commercial and industrial districts as well.

### **Design Review and Control**

The Planning Board reviews exterior building elevations and landscaping for non-residential buildings and multi-family buildings. Single-family dwellings, two-family dwellings, and their accessory buildings are not subject to the existing design review controls. For projects outside the two historic districts, the Planning Board uses general design standards from Article IX, Section 125-87 Standards of the zoning code in its exercise of site plan review. These standards concern vehicular and pedestrian circulation, site layout, screening, drainage, utilities and services, conformance with the comprehensive plan, environmental impacts, and solar access. The town's two historic districts exercise architectural review over elements of exterior design as part of granting a certificate of appropriateness.

Bedford residents do not feel that the existing design controls are sufficient to ensure that most new construction is in keeping with community character. Municipalities throughout Westchester County and New York State have resolved this issue differently. If Bedford agrees, as a community, that it is now time to exercise control over the design of single-family houses, the first decision the town needs to make is whether an existing board or a newly constituted board shall exercise this review. Under New York State's Town Law, 274-a.2.(a), Bedford's Planning Board can be authorized to exercise architectural design control, as a function of site plan review. The current code permit the Planning Board some review powers over these issues. While there is no similar statute enabling municipalities to establish Architectural Review Boards, many in Westchester County have done so.

Municipal design review has traditionally been limited to discrete areas in a municipality with special historic or aesthetic character, where preservation and design restrictions are achieved by design guidelines incorporated into the text of a special district or overlay district. Within Westchester County, four forms of municipal design and preservation control can be found: design review ordinances, historic district ordinances, landmarks commission ordinances, and special character districts. (The latter three are discussed in Chapter 9.0).

**Recommendations.** A design review ordinance and a special character ordinance can be administered by a design review board (known in the county by a variety of names) or by the local planning board. The plan recommends that Bedford either consider further expanding the purview of the Planning Board so that it might have greater control over proposed design or consider creating an Architectural Review Board. If the Planning Board is chosen, then no new board needs to be created and a separate design review ordinance would not be needed. In this case, the Town Board would amend the zoning ordinance so that the Planning Board is clearly charged with the state-given powers to exercise architectural design control. The design criteria can be written into the site plan approval text in the zoning code. An applicant would be subject to design review if the proposal were subject to site plan approval; this would cover only commercial, industrial, and multi-family use applications. The two processes would be handled by the one board and would proceed concurrently. With regard to single-family and two-family structures, this plan strongly encourages property owners contemplating additions or new construction to be sensitive to the established design character of the surrounding houses, especially if one is architecturally significant. Design elements of a house that contribute to overall community character are roof type and pitch, façade details, materials, and colors, and the size, placement, and proportion of windows and doors.

The design review criteria that might be included in the site plan approval process should cover the following:

- **Overall site design.** Pedestrian access, vehicular access, parking, building siting, and conditions around the site perimeter.
- **Landscaping.** Size, spacing, and species of plant material, tree retention, entry or gateway planting, screening or buffering planting, the use of a landscape architect, and methods of protecting trees and drainage systems during grading.
- **Building orientation and form.** Relationship to existing built context, the location, orientation, and treatment of the entrance, details of the ground level façade, and appropriate building massing and roof line.
- **Signs and Lighting.** Position, means of attachment, materials, height, and illumination of signs. Reduction of light pollution that destroys Bedford's brilliant night skies.
- **Public spaces.** Visibility, access, use, maintenance, lighting, security, seating, solar exposure, size and dimension of the public space in relation to the project's size, landscaping, seating, and presence of supportive commercial use.
- **Preservation of Structures of Historic Significance.** The age and historical significance of existing structures should be considered where the plan proposes alteration or demolition of such structures. For a discussion of these concerns, see Section 9.3.

## Cell Towers

The plan discourages the location of cell towers in residential areas. Prior to allowing a cell tower, the town should verify that the tower is needed. Cell tower applicants should be required to produce a stealth design, where the cell tower is somewhat disguised, or to co-locate with other towers.

## Protection of the Natural Environment

As mentioned above, Bedford has a wetlands ordinance, a steep slopes ordinance, an aquifer protection zone, flood drainage protection regulations, a tree preservation ordinance, and town-designated Critical Environmental Areas to control development-related impacts on natural features.

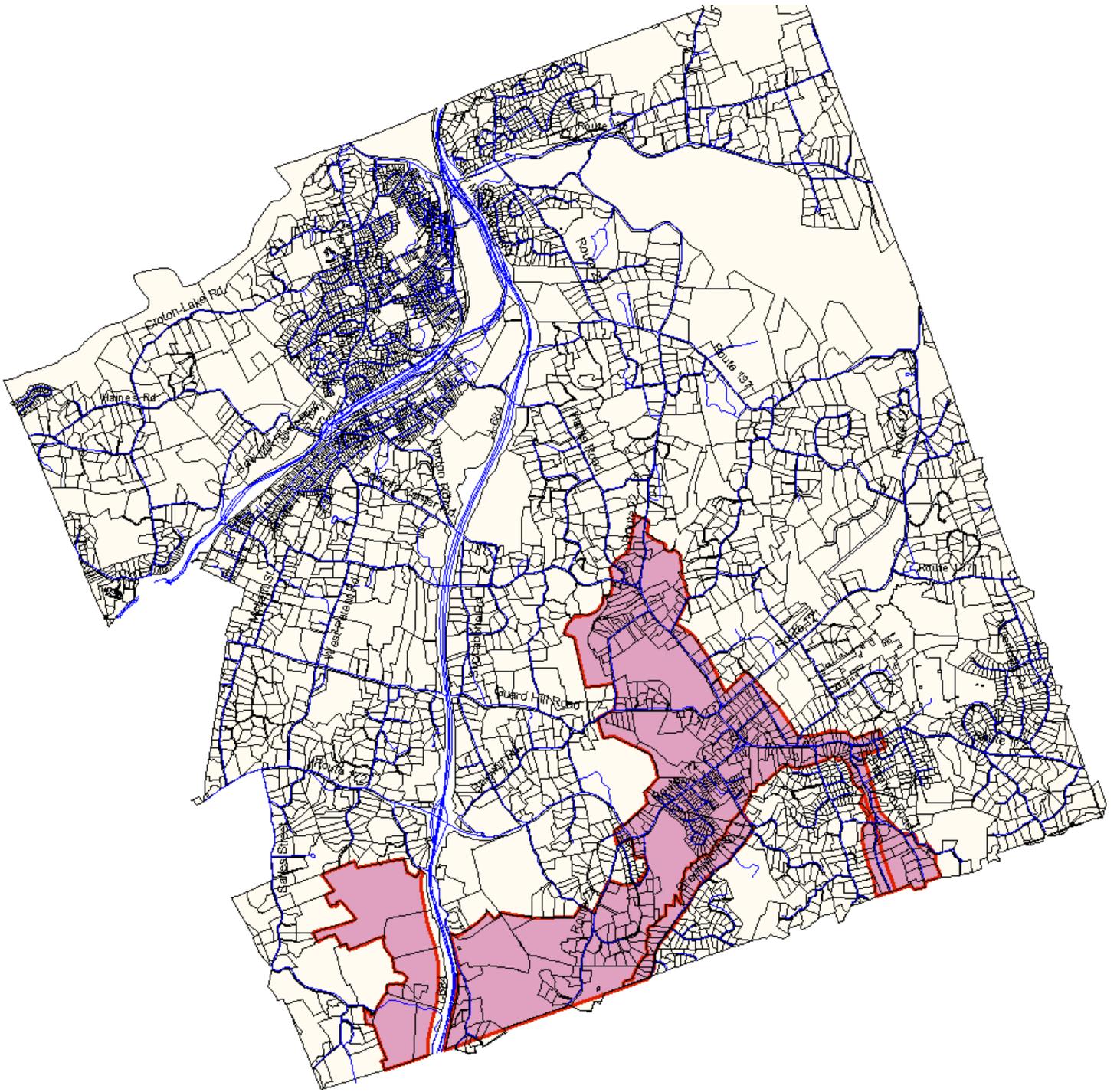
**Recommendations.** Specific recommendations on some of these follow.

**Aquifer Zones.** The town should consider revising the aquifer protection law to prohibit the placement of new septic systems in any aquifer zone and require periodic pumping of existing septic systems in any aquifer zone. For a discussion, see Section 7.9.

**Critical Environmental Areas.** There are four existing CEAs in Bedford. (See Figure 3.3) The town should make activity in each of these a Type 1 action under SEQR. Each CEA should be protected by a 100' setback, in which activity is controlled by the Planning Board and/or the Wetlands Control Commission. Further, the town should designate the Mianus River and its floodplain as a new CEA. The town should verify that road signs announcing the presence of a CEA and entry into a watershed are in the right place. Figure 3.3 shows the town's four CEAs. The town should do an official CEA map on an updated digitized base, with road names, clear CEA boundaries, and labels for each CEA. Bedford should also consider revising the CEA law to prohibit the placement of new septic systems in any CEA and require periodic pumping of existing septic systems in any CEA. For a discussion, see Section 7.9.

**Density Discounting of Environmentally Sensitive Lands.** Bedford's zoning ordinance (Section 125-14) states that no more than 25% of the minimum lot area required under the Zoning Ordinance may be satisfied by land which is under water or mapped as a wetland by the Wetlands Control Commission, except that in an R-4A district no more than 50% may be so satisfied. This plan recommends that Bedford consider amending its zoning and subdivision ordinances to state that environmentally sensitive lands, in any district, must be discounted 25% in density calculations. This would achieve the objective of reducing density on a lot by lot basis or allow the Planning Board effectively to set a maximum lot count (a density cap) in a subdivision project. The act of discounting alone would not, however, preclude development on such lands. Sensitive lands may be defined at steep slopes, wildlife habitat and corridors, and significant tree stands. An alternative to this approach would be to consider a town-wide ordinance regarding development on land with environmental constraints.

**Erosion and Sediment Control and Tree Protection During Construction.** Bedford should adopt an erosion and sediment control ordinance that would have specific language prohibiting such widespread stripping. Such a control would prevent bare earth from eroding off a site into surface water and wetlands, onto roads, or onto others' properties. The developer is responsible for putting such controls in place prior to site work and maintaining them during construction. The town should develop its own best management practices, incorporating state and county recommendations, and produce a document for applicants' use. Bedford may also wish to have a town official or member of the Tree Advisory Board advise the Planning Board and the developer on best management practices for tree protection on construction sites. The current tree ordinance refers to best management practices as the standard for tree protection.



Town of Bedford Comprehensive Plan  
Bedford, NY

Figure 3.3 Critical Environmental Areas

Approximate Boundaries of Bedford's CEAs



0 2000 4000 Feet

BFJ Buckhurst Fish & Jacquemart, Inc.  
Source of Basemap: Impact, LLC

**Open Space.** One of the methods that Bedford has employed to acquire permanently set-aside open space is to use the development process to produce this public good. The Wetlands Control Commission has successfully negotiated with a small number of property owners that they voluntarily subject their particularly sensitive wetlands to deed restrictions prohibiting future development in such areas. In addition, some property owners have voluntarily granted conservation easements to not-for-profit conservancy groups, such as the Westchester Land Trust and the Nature Conservancy. The Planning Board has also required dedicated open space from subdivision applicants. The plan recommends that these techniques continue to be used to supplement Bedford's other open space acquisition techniques (described in Chapter 5.0) and that voluntary efforts be encouraged.

**Ridgeline Protection.** The town's Conservation Board is examining the town's ridgelines and bio-corridors to identify which require added levels of protection. The board has presented the town with a model ordinance for a ridgeline overlay district. At present, the steep slopes ordinance requires that development on slopes of 25% grade or greater obtain a steep slope permit from the Planning Board. Bedford could amend the ordinance text specifically to regulate ridgelines and hilltops (e.g., adding text to Section 102-4F). Chapter 5.0, Open Space recommends that undeveloped property that has an important viewshed should also be protected.

**Wetlands Ordinance.** The wetlands ordinance has a three-pronged definition of wetlands. It lists prohibited acts, regulated acts, and acts permitted as-of-right. The ordinance establishes a 100' wetlands or watercourse buffer, and requires a permit from the Wetlands Control Commission if construction or certain other activities are proposed within the wetlands or buffer. Home sites and subdivisions, whose permitting requires wetland avoidance, should be required to preserve a property's wetland as habitat for plants and wildlife indigenous to marshy ground, vernal and seasonal pools, and intermittent watercourses. Selective cutting to prevent forest re-growth is suitable. Excessive mowing of wetlands - disturbing the natural habitat of marsh-loving flora and small animals - is not suitable. The wetlands ordinance has worked well but due to increased development pressures and greater threat to sensitive water resources and the lands that protect them, the town should consider strengthening the ordinance. What follows is a discussion of some, but not all, of the areas to be considered.

The Great Swamp wetlands have recently been protected with a 150' buffer. Bedford should consider expanding the buffer for other significant wetlands or significant waterbodies to 150 feet. This should be preceded by a biodiversity study of the town's wetlands, stream habitats, and waterbodies. Such a study would identify significant resources and their systems, determine which are sensitive and require additional protection, and would identify properties whose structures will be made nonconforming if the buffer is increased. Such a study should include the Mianus River, which is protected in North Castle with a 100' buffer and in Pound Ridge by a 150' buffer, as well as any other watercourse, waterbody, or wetland draining into a drinking water source. Significant wetlands and watercourses and their buffers should also be provided greater protection by requiring a permit for certain activities now permitted as of right. These might cover mowing, application of herbicides, pesticides, and other chemical applications or other activities which may have an adverse impact on particularly sensitive wetlands or watercourses.

The town should consider revising the wetlands law to prohibit the placement of new septic systems in wetlands and strongly discourage placement in wetlands buffers. Such systems should be

closely scrutinized. The town and/or the county should require periodic pumping of existing septic systems in wetlands and wetland buffers. For a discussion, see Section 7.9. Also in Chapter 7.0, the plan recommends that public sewers be installed in the hamlets which would rectify current problems and avoid damage to water supplies.

Bedford should consider changes in the law and/or internal policies to ensure prompt and effective enforcement of violations of the wetlands law. Also, the town should consider providing the Commission with the authority to act in an emergency to repair and restore severe and continuing damage to wetlands and buffers if the property owner following due notice fails to take necessary action.

***Wildlife and Habitat Overlay District.*** The Conservation Board has presented the town with a model ordinance on wildlife and habitat overlay districts. Bedford should give this its consideration. This would provide special controls over land use and development in significant wildlife habitat systems. Such areas would need to meet certain criteria to require such special protections, e.g., the areas support endangered, threatened, or declining species or comprise unusual habitat meriting conservation and such areas also form interconnected ecosystems or corridors for such wildlife or habitat. The town might consider vesting the Planning Board and all permitting board and commissions with the authority in the subdivision or site plan review process to protect areas from activities which would eliminate or adversely affect the corridors. Some of these corridors may overlap with the greenbelts (see Chapter 4.0). The Town Board should consider adopting revisions in town law to provide that permitting boards and commissions (i.e., the Town Board, the Planning Board, the Zoning Board of Appeals, and the Wetlands Control Commission) consider in the review of any application or plan submitted to it any potential adverse impact on any endangered or threatened species, including the habitat supporting such species. " As to the definition of endangered or threatened species, the Town Board should consider adopting federal, state, and/or county definitions. In 2000, the county adopted the "Westchester County Endangered Species Act."