

PLANNING DEPARTMENT



PO Box 606
Wampsville, NY 13163
(315) 366-2376

Scott Ingmire
Director

GML Recommendation Report

This application or petition has been referred to the Madison County Planning Department, as the County Planning Agency pursuant to General Municipal Law 239-l and -m, because it applies to property within 500' of at least one of the following:

- State or County Highway
- Land on which a Public Building is located
- State or County Park/ Recreational Area
- Cowaselon Creek (County-owned or delineated stream or drainage channel)
- Municipal Boundary
- Farm operation in a State-certified Agricultural District (excluding area variance)

Which is/ are: Town of Madison inclusive

NOTE TO THE LOCAL REFERRING BOARD: Article 12-b Section 239 of the General Municipal Law requires that final action by your Board contrary to the Madison County Planning Department's recommendation of either "Modification" or "Disapproval" requires a super-majority (majority-plus-one) vote of all members thereof, and that you set forth the reasons of such contrary action in the report to be filed with the Madison County Planning Department within 30 days of your final action. (An Official Notice of Action form is enclosed for this purpose.)

GML Log#:	<u>087- 2013</u>	Company Name:	<u>Town of Madison</u>
Municipality:	<u>Town of Madison</u>	Applicant Name:	<u>Ronald Bono</u>
TaxMapID:	<u>inclusive</u>	Applicant Address:	<u>PO Box 66</u>
		Applicant City/St/Zip:	<u>Madison, NY 13402</u>

Date Received:	<u>8/1/2013</u>	Date of Recommendation:	
GML Action 1:	<u>Zoning Text Amendment</u>	Recommendation 1:	<u>Return for Local Determination</u>
GML Action 2:	<u>Zoning Map Amendment</u>	Recommendation 2:	<u>Return for Local Determination</u>

Comments:

The proposed Windpower Facilities Law would replace the existing Special Use Permit Regulations for Windpower Facilities in the Town. The proposed new law establishes requirements to obtain a Special Permit for Wind Energy Facilities in order to construct, reconstruct, modify, operate or replace them in the Town. Under the new proposed law there are three distinguished standards for granting a Special Permit for WMT, Small Wind Energy Conversion System (WECS), and Industrial Scale Wind Energy Facilities.

Currently, the Town of Madison does not have zoning. However, under this proposed law, two overlay zones are being proposed: Wind District A and Wind District B. We believe the establishment of these districts is an excellent example of how zoning can be used to guide appropriate development. One suggestion we would make is to combine the two to just "Wind District" as there is no difference between Wind District A and Wind District B. As proposed, no "Industrial Scale Wind Energy Facilities" (ISWEF) or associated "Wind Measurement Tower" (WMT) would be allowed to be constructed outside of the proposed Wind District. Industrial Scale Wind Facility is defined by the proposed law a wind facility with a turbine height above 250 feet that produces in excess of 100 kW and is designed primarily to deliver electrical power to the grid. WMTs are described as towers used for the measurement of meteorological data. The proposed zone text applies special wind energy review standards to proposed ISWEF and WMT uses within the Wind District. If adopted, the Town should establish a zoning map and the Wind District should be shown on the Town's zoning map. We have created an unofficial map using ArcGIS (attached); we are available to make any changes or update this map if the Town needs assistance in creating their official zoning map.

The establishment of this district also means that the Town must establish a Zoning Board of Appeals (ZBA). A ZBA has the authority to vary the provisions of the zoning law. Essentially this Board acts as a safety valve to ensure that zoning laws are not overly rigid. They also have the power to render interpretations of the zoning regulation. This Board may have 3 or 5 members. More can be read about the role of the Zoning Board of Appeals here:

http://www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf . The NYS Department of State Division of Local

Governments also has a thorough video regarding ZBAs which can be viewed here:
http://www.dos.ny.gov/lg/onlinetraining/Zoning_Board_of_Appeals_Overview-Online_Course/player.html

It should be noted that two wind farms are currently in or partially in the Town of Madison: Madison Wind Farm and Munnsville Wind Farm. All together there are 12 existing wind turbines in the Town of Madison. All 12 are within the Wind Districts being proposed. 1.06 C states that "[e]xisting windmill facilities can replace exciting towers and turbines with facilities of similar size and capacity on existing foundations." Any other changes would be subject to Planning Board approval.

The standards set forth for ISWEF in Article IV of the proposed law seem well thought out and reasonable overall. Some of the most significant additions or changes compared to the previous law include requiring the applicant to enter into an escrow agreement to help fund the review, the testing of property owners' water supply within ½ mile of any proposed ISWEF, a decrease in audible sound limits from 50 dbA to 40 dbA, increase in some setback distances, and a limit on turbine height. Land protected by conservation easement was also identified in 4.05 12 as not allowed to be used for an ISWEF.

Our most significant concerns regard the turbine height restriction and some of the increased setback requirements. We do not see a reason to set a maximum tower height for the turbines in the proposed Wind District. As wind tower heights are already limited by and subject to FAA regulation, we see the currently proposed height limit of 450 feet as somewhat arbitrary. In our view, it is more appropriate to regulate wind turbines not by a specific allowable height but instead by setbacks, visual impact analysis, noise, etc (as the proposed law does). If the Town does find it necessary to set a maximum height, our understanding is that, in the past, FAA regulation has required a higher level of review for any object that exceeds 500 feet. In which case, it is our opinion that if a maximum height is to be set it match that, i.e. not higher than 500 feet and subject to FAA approval.

We have a concern about requiring 2.5 times the Turbine Height between each turbine. This seems like it may spread out a wind farm project unnecessarily. The previous law required 1.5 times the Turbine Height (see H 6 of past law) which we find to be reasonable. For instance, only 2 of the existing 12 turbines in Madison are 2.5 times the distance between each other (and even then these 2 are within 2.5 times the distance of an adjacent turbine in the Town of Eaton). The Board may want to reconsider whether this large of a setback is really necessary between turbines. We have attached a map to compare the existing law (1.5x) and the proposed law (2.5x) for a comparison to establish an appropriate distance between turbines. Under the new proposed law, Small Wind Energy Conversion System (Small WECS) and WMTs (not associated with ISWEFs) are still permitted in any located in the Town provided they obtain a permit from the Planning Board. Small WECS are defined by the proposed law as having a capacity not more than 100 kW and intended primarily for on-site consumption. The standards set forth in section 2.04 and section 3.02 for WMTs and Small WECS seem well thought out and reasonable.

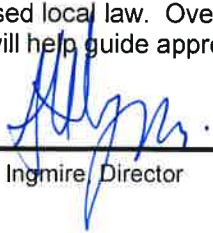
That said, our one area of concern is the height restrictions on WMTs in the proposed Wind Districts. Currently the proposed law states the WMTs can have a maximum height of 200 feet (2.04 B). This may be appropriate for WMTs outside of the Wind Districts, but it is our understanding that WMTs are typically used to mount anemometers at a range of heights up to the hub height of the proposed wind turbines, and they log the wind speed data at frequent intervals. It is also our understanding that in many cases the typical height of WMTs used is 60 meters (196.8 ft), but since turbines in the Wind Districts are permitted to be up to 450 feet we can foresee instances where limiting the height of the WMTs to 200 feet in the Wind Districts may limit the applicant in obtaining reliable data.

We support that the proposed law also requires applicants of WEFs to register their presence and purpose with the Town Clerk prior to contacting any property owners to obtain access to potential sites.

We support exempting land used for agriculture or farm operations from the Small WECS regulations as stated in 3.03 G.

On page 10 it states "7. Certification of compliance with section 2.01 B above" but we believe it should be corrected to "2.02 B."

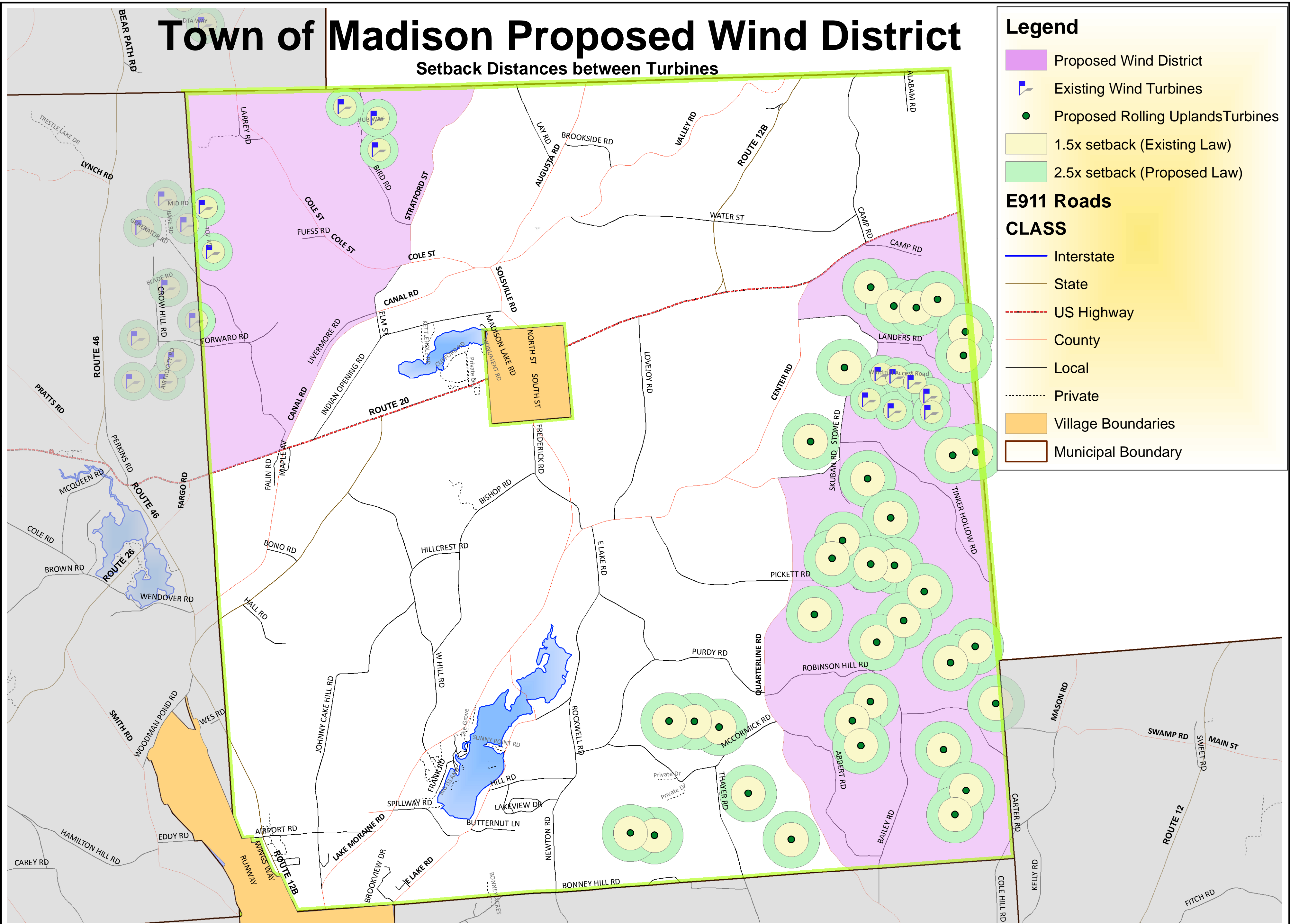
We commend the Town and the community for working together to create this proposed local law. Overall, we believe that it reflects the Town's Comprehensive Plan and is a thorough and reasonable law that will help guide appropriate future wind development in the Town.



Scott Ingmire, Director

Town of Madison Proposed Wind District

Setback Distances between Turbines

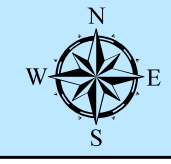


Legend

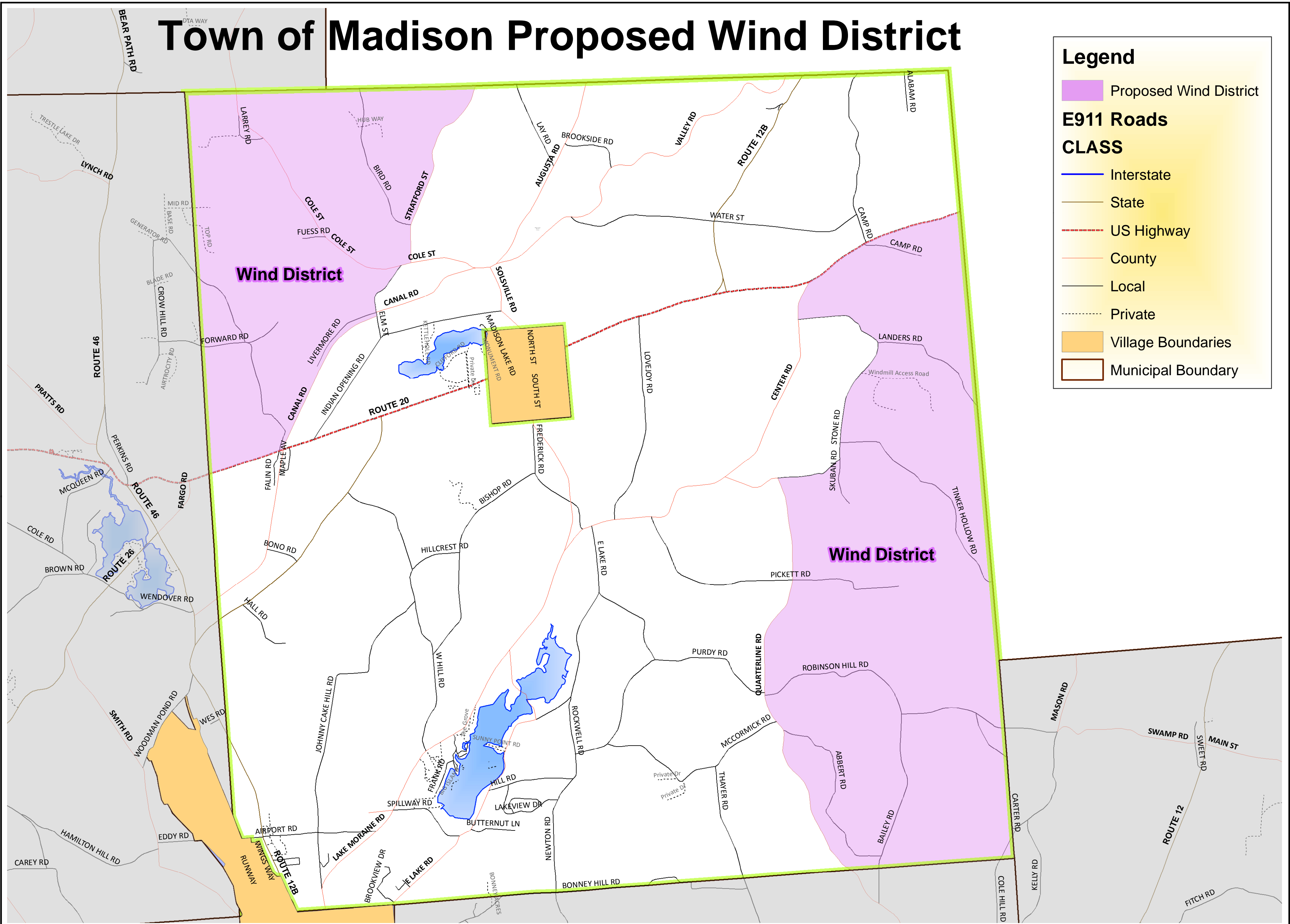
- Proposed Wind District
- Existing Wind Turbines
- Proposed Rolling Uplands Turbines
- 1.5x setback (Existing Law)
- 2.5x setback (Proposed Law)

E911 Roads CLASS

- Interstate
- State
- US Highway
- County
- Local
- Private
- Village Boundaries
- Municipal Boundary



Town of Madison Proposed Wind District



Legend

- Proposed Wind District

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