

ENROLLED ORDINANCE 178-51

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION  
ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF OTTAWA  
BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF  
SECTION 4, T6N, R17E, TOWN OF OTTAWA, TO REMOVE THE C-1 CONSERVANCY  
OVERLAY DISTRICT FROM LANDS WITH A BASE ZONING DESIGNATION OF R-3  
RESIDENTIAL DISTRICT  
(RZ126)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Town on September 11, 2023; and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 59.692, Wis. Stats.

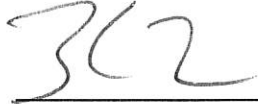
THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Waukesha County Shoreland and Floodland Protection Ordinance District Zoning Map for the Town of Ottawa, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors on June 23, 1970, is hereby amended to conditionally rezone lands located in part of the NE ¼ of Section 4, T6N, R17E, Town of Ottawa to remove the C-1 Conservancy District Overlay designation from a portion of a parcel with a base zoning designation of R-3 Residential District. The request is more specifically described in the "Staff Report and Recommendation" and map on file in the office of the Waukesha County Department of Parks and Land Use for RZ126. This rezoning is subject to the following conditions:

1. A Wetland Restoration Plan, showing the removal of the existing detached garage and larger area of fill within the WDNR designated wetland, must be prepared by a qualified wetland restoration professional and submitted to the Planning and Zoning Division Staff and Town Planner for review and approval, by December 1, 2023, prior to the issuance of the Minor Grading Permit and final approval of the rezoning request by Waukesha County and implemented during the growing season of 2024 and completed no later than June 1, 2024. The intent is that the property be restored according to the Approved Plan. The Wetland Restoration Plan shall include the entire wetland fill removal area. The Plan shall indicate how the wetland fill area will be restored with native plant species as recommended in the Vegetation Plan component of the approved Restoration Plan. A detailed list of plants to be used including seeding mixtures and/or planting size and species shall be identified as part of the approved Plan. An Erosion and Sediment Control Plan, as necessary, shall also be part of the approved Restoration Plan. The wetland restoration area shall be managed by the petitioner for a minimum of 3 years.
2. A Declaration of Restrictions must be prepared describing the Approved Restoration Plan required in Condition No. 1 above, its timeline for implementation, and the maintenance responsibilities as required in Condition 1. The Declaration of Restrictions shall also state that staff members of the Waukesha County Department of Parks and Land Use, or its successor, shall, with ample notice, be permitted to conduct periodic inspections of the property for the purpose of verifying that the required restoration is maintained. The Declaration of Restrictions shall also include long-term maintenance provisions. Prior to the issuance of a Minor Grading Zoning Permit and final approval of the rezoning request by Waukesha County, the Declaration of Restrictions must be signed by the owners, notarized, and recorded in the Waukesha County Register of Deed's office, and a copy furnished to the Planning and Zoning Division staff.

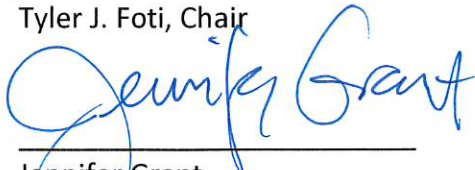
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town of Ottawa Clerk.

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF OTTAWA BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF SECTION 4, T6N, R17E, TOWN OF OTTAWA, TO REMOVE THE C-1 CONSERVANCY OVERLAY DISTRICT FROM LANDS WITH A BASE ZONING DESIGNATION OF R-3 RESIDENTIAL DISTRICT (RZ126)

Presented by:  
Land Use, Parks, and Environment Committee



Tyler J. Foti, Chair



Jennifer Grant



Christine M. Howard

**Absent**

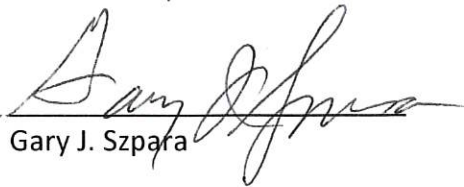
Robert L. Kolb



Brian Meier



Chris Mommaerts



Gary J. Szpara

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 10/27/23,   
Margaret Wartman, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X

Vetoed: \_\_\_\_\_

Date: 10/27/2023,   
Paul Farrow, County Executive

# Exhibit A 2022 Orthophotography

Ryan Lewis Property  
W370 S1519 Utica Road  
NE Quarter, Section 4, T6N-R17E  
Town of Ottawa, Waukesha County

RECEIVED 6/26/2023  
DEPT PARKS & LAND USE

Utica Lake

Utica Lake Tamaracks  
and Adjacent Wetlands  
NA-3

Utica Road

Disturbed (Non-Resource) PEC Staked by SEWRPC on 4/26/2023

**Legend**

- Sample Site Location
- Sample Site Number
- Project Area
- Wetland Boundary Staked by SEWRPC on 4/26/2023
- Approx. Extent of
- Recent Fill in Wetland
- Approx. Wetland
- Approx. PEC
- Source: SEWRPC Natural Area CA#730-87

0 50 100 Feet

# Exhibit B - DNR Wetlands (2015)



**Legend**

- DNR Wetlands < .25 Acre
- DNR Wetlands > .25 Acre
- Municipal Boundary
- Points of Interest
- Parcel\_Dimension\_2K
- Note\_Text\_2K
- Lots\_2K
- Lot
- Unit
- General Common Element
- Outlot
- SimultaneousConveyance
- Assessor Plat
- CSM
- Condominium
- Subdivision
- Cartoline\_2K
- EA-Easement\_Line
- PL-DA
- PL-Extended\_Tie\_line
- PL-Meander\_Line
- PL-Note
- PL-Tie
- PL-Tie\_Line
- <all other values>
- Road Centerlines\_2K
- Railroad\_2K
- TaxParcel\_2K
- Waterbodies\_2K\_Labels
- Waterlines\_2K\_Labels

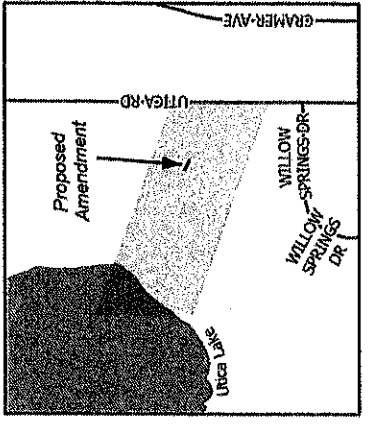
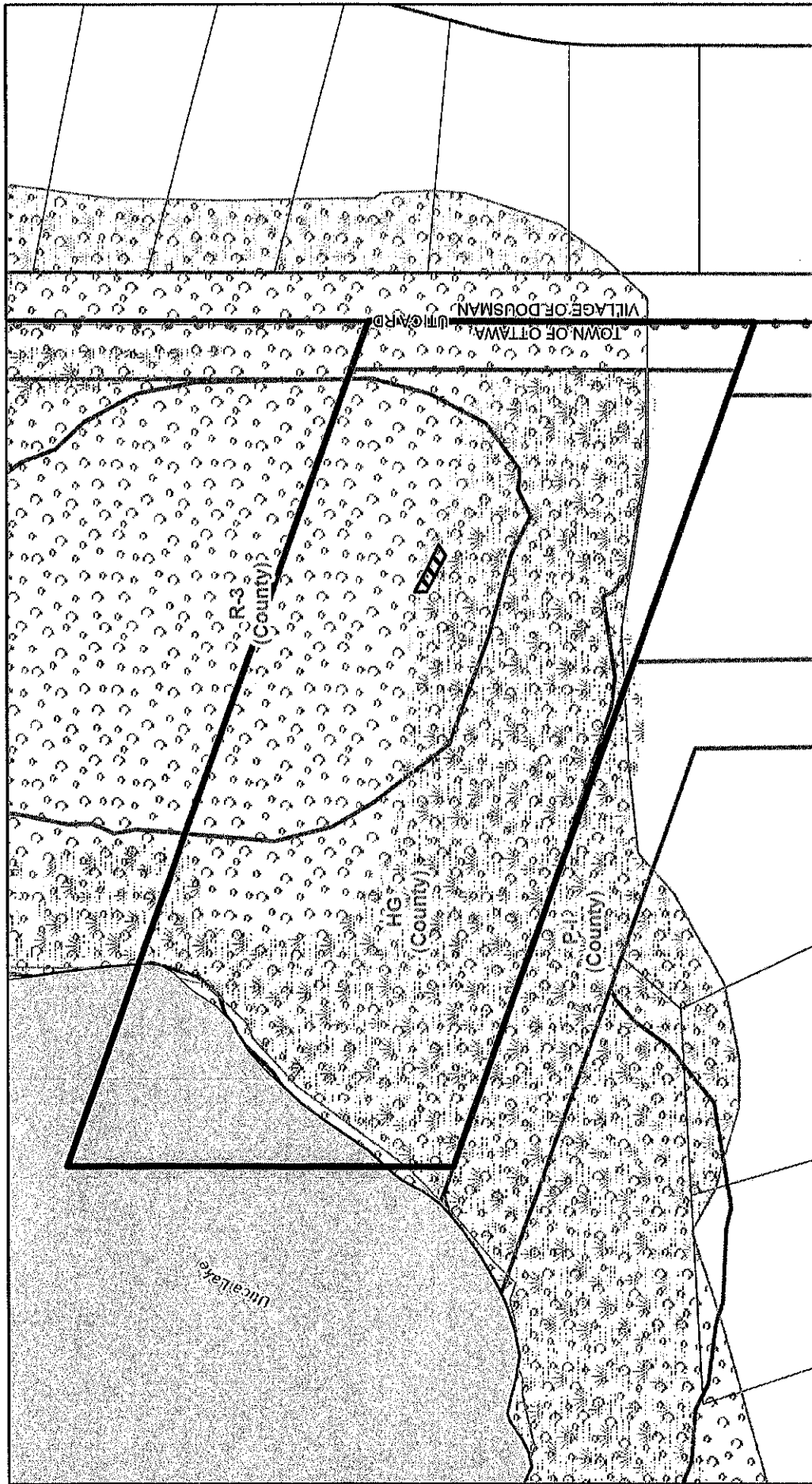
0 100.00 Feet

The information and depictions herein are for informational purposes and Waukesha County specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Waukesha County will not be responsible for any damages which result from third party use of the information and depictions herein, or for use which ignores this warning.

**Notes:**

Printed: 9/12/2023





<p>COUNTY ZONING CHANGE FROM C-1 CONSERVANCY OVERLAY DISTRICT TO R-3 RESIDENTIAL DISTRICT</p> <p>EC Environmental Corridor Overlay</p> <p>C-1 Conservancy Overlay</p>	
FILE.....	RZ126
DATE OF PLAN COMMISSION.....	9/21/23
AREA OF CHANGE.....	.232 SF
TAX KEY NUMBER.....	OTWT 1597.998

# ZONING AMENDMENT

PART OF THE NE 1/4, SECTION 4,  
TOWN OF OTTAWA

0      75      150

Feet


**COMMISSION ACTION**

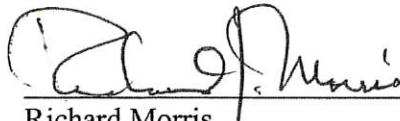
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance hereby recommends approval of **RZ126 (Lewis)** in accordance with the attached "Staff Report and Recommendation".

**PARK AND PLANNING COMMISSION**

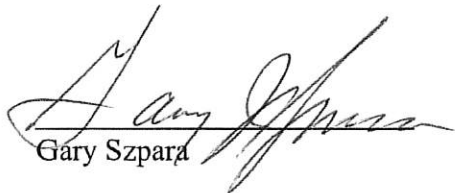
**September 21, 2023**

  
James Siepmann, Chairperson

  
Robert Peregrine

  
Richard Morris

  
William Groskopf

  
Gary Szpara

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE**  
**STAFF REPORT AND RECOMMENDATION**  
**ZONING MAP AMENDMENT**

**DATE:** September 21, 2023

**FILE NO.:** RZ126

**OWNER/APPLICANT:** Ryan Lewis  
W370 S1519 Utica Road  
Dousman, WI 53118-9337

**TAX KEY NO.:** OTWT 1597.998

**LOCATION:**  
Certified Survey Map No. 519, Volume 3, Page 228, being a part of the NE ¼ of Section 4, T6N, R17E, Town of Ottawa. More specifically, the property is located at the Utica Road address cited above containing approximately 3.5 acres.

**EXISTING USE(S):**  
Single family residence with an attached garage and a detached garage (to be removed).

**REQUESTED USE(S):**  
To allow the retention of a small area of after-the-fact fill placed in a wetland alongside the driveway on the property.

**EXISTING ZONING DISTRICT CLASSIFICATION(S):**  
R-3 Residential District with C-1 Conservancy Overlay District (wetland), HG, and EC Overlay.

**PROPOSED ZONING DISTRICT CLASSIFICATION(S):**  
R-3 Residential District (the EC Overlay will not change).

**CONFORMANCE WITH THE WAUKESHA COUNTY COMPREHENSIVE DEVELOPMENT PLAN (WCCDP) AND THE TOWN OF OTTAWA COMPREHENSIVE DEVELOPMENT PLAN (CDP):**

The property is located with the Ottawa-Dousman Municipal Boundary Agreement and therefore has no land use designation on the Town's plan. The County's CDP designates the majority of the parcel as Primary Environmental Corridor with small amounts of Other Open Lands to be Persevered and Medium Density Residential in the southeastern corner of the property. With the removal of the larger amount of fill and the existing detached garage and restoration of the site, it is felt the small area of fill is consistent with the plan in that it is on the edge of a disturbed area and will help to prevent further erosion into the wetland environment once the area is fully restored.

**PUBLIC HEARING DATE:** September 11, 2023

**PUBLIC COMMENT:**  
One person sent an email in favor of the rezone request but also expressed that any other areas of fill be returned to the original wetland state with a condition of restoration of those disturbed areas.



**TOWN PLAN COMMISSION ACTION:**

On September 11, 2023, the Town of Ottawa Plan Commission unanimously recommended approval of the zoning amendment request to the Waukesha County Park and Planning Commission subject to the two conditions in the Town Planner's report and recommendation and as are listed below.

**STAFF ANALYSIS:**

The subject property is 3.5 acres in size and is located on the west side of Utica Road on the east shore of Utica Lake and contains a single family residence with an attached garage and a detached garage to be removed. The majority of the parcel is designated as Primary Environmental Corridor, as well as wetland, hydric soils, and some floodplain near the lake. A portion of the property also includes the Utica Lake Tamaracks - a 36 acre Critical Species Habitat site updated by SEWRPC in 2018 that contains a tamarack relict and yellow lady's slipper orchid which is a State designated species of special concern. The wetland was recently field delineated by the SEWRPC on 4/26/23 (Exhibit A). The delineation report has not yet been drafted at this time and therefore the Planning and Zoning Division clarified through email correspondence with SEWRPC that the delineation reflects post-disturbance conditions and that the pre-disturbance location of the wetland on the property in fact also includes areas previously designated by the WDNR where the detached garage and driveway expansion are now located (Exhibit B). This is important so that the larger fill violation can be appropriately addressed and resolved and a building replacement location identified.

The larger area of fill shown on the aerial exhibit will be removed along with the existing detached garage. The smaller area of fill alongside the driveway is proposed to be retained as there has been erosion issues, which if not corrected, would lead to further erosion and harm to the wetland environment. The placement of a small amount of fill to shore up the edge of the driveway in this location has stopped the erosion from occurring. It is this area of fill that requires a rezone from the R-3 Residential District with a C-1 Conservancy Overlay to the upland R-3 Residential District. The EC Overlay District will remain unchanged. The area of rezoning is also shown in yellow highlighting on Exhibit C. Since the larger area of fill will be removed, a Conditional Use is no longer required, only a Minor Grading Permit to retain the smaller area of fill. The new detached garage will likely require a variance and the existing detached garage will be removed and that area restored. The owner will be required to submit a restoration plan for staff review and approval in order to resolve the fill and vegetation removal violations. All of the commercial related vehicles and equipment will also be removed from the property.

**STAFF RECOMMENDATION:**

Based on the above analysis, the Planning and Zoning staff recommends **approval** of the request subject to the following conditions:

1. A Wetland Restoration Plan, showing the removal of the existing detached garage and larger area of fill within the WDNR designated wetland, must be prepared by a qualified wetland restoration professional and submitted to the Planning and Zoning Division Staff and Town Planner for review and approval, prior to the issuance of the Minor Grading Permit and final approval of the rezoning request by Waukesha County and implemented during the growing season of 2024 and completed no later than June 1, 2024. The intent is that the property be restored according to the Approved Plan. The Wetland Restoration Plan shall include the entire wetland fill removal area. The Plan shall indicate how the wetland fill area will be restored with native plant species as recommended in the Vegetation Plan component of the approved Restoration Plan. A detailed list of plants to be used including seeding mixtures and/or planting size and species shall be identified as part of the approved Plan. An Erosion

and Sediment Control Plan, as necessary, shall also be part of the approved Restoration Plan. The wetland restoration area shall be managed by the petitioner for a minimum of 3 years.

2. A Declaration of Restrictions must be prepared describing the Approved Restoration Plan required in Condition No. 1 above, its timeline for implementation, and the maintenance responsibilities as required in Condition 1. The Declaration of Restrictions shall also state that staff members of the Waukesha County Department of Parks and Land Use, or its successor, shall, with ample notice, be permitted to conduct periodic inspections of the property for the purpose of verifying that the required restoration is maintained. The Declaration of Restrictions shall also include long-term maintenance provisions. Prior to the issuance of a Minor Grading Zoning Permit and final approval of the rezone request by Waukesha County, the Declaration of Restrictions must be signed by the owners, notarized, and recorded in the Waukesha County Register of Deed's office, and a copy furnished to the Planning and Zoning Division staff.

*Please note: The required Declaration of Restrictions may be prepared by the Waukesha County Department of Parks and Land Use – Planning and Zoning Division staff. Please contact the Planning and Zoning Division staff if you would like them to draft the Declaration of Restrictions. There is a fee for this service. If you choose not to have the Declaration of Restrictions prepared by the Planning and Zoning Division staff, please submit a copy of the Declaration of Restrictions you have prepared to the Planning and Division staff for review and approval, prior to recordation in the Waukesha County Register of Deed's office.*

The area requested to be rezoned is minor and will not adversely impact the wetland or Critical Species Habitat. This area is also subject to erosion and the fill will assist the property owner in maintaining the edge of his driveway to prevent further erosion from occurring and causing future harm to the wetland environment. The larger area of fill as well as the detached garage will be removed as conditioned as part of the remediation and restoration project for the property which will return this area of the property to a more natural wetland habitat.

Respectfully submitted,

*Sandra L. Scherer*

Sandy Scherer  
Senior Planner

Attachments: Exhibit A  
Exhibit B  
Exhibit C  
Rezone Map

N:\PRKANDLU\Planning and Zoning\Rezones\Staff Reports\RZ126 Lewis owt.doc

VOTE RESULTS >

25 YES 0 NO 0 ABSTAIN 0 ABSENT

**Ordinance 178-O-051**

Ordinance 178-O-051: Amend the Waukesha County Shoreland and Floodland Protection Ordinance District 2 Conditionally Rezoning Certain Lands Located in Part of the NE 1/4 of Section 4, T6N, R17E, Town of Ottawa, to Remove the C-1 Conservancy Overlay District from Lands with a Base Zoning Designation of R-3 Residential District (RZ126)

 **Passed By Majority Vote**

D1 - Foti	AVE	D10 - Thieme	AVE	D19 - Enriquez	AVE
D2 - Weil	AVE	D11 - Howard	AVE	D20 - Schellinger	AVE
D3 - Morris	AVE	D12 - Wolff	AVE	D21 - Gaughan	AVE
D4 - Batzko	AVE	D13 - Decker	AVE	D22 - Szpara	AVE
D5 - Grant	AVE	D14 - Mommaerts	AVE	D23 - Hammitt	AVE
D6 - Walz	AVE	D15 - Kolb	AVE	D24 - Bangs	AVE
D7 - LaFontain	AVE	D16 - Crowley	AVE	D25 - Johnson	AVE
D8 - Koremenos	AVE	D17 - Meier	AVE		
D9 - Heinrich	AVE	D18 - Nelson	AVE		

7th Meeting, 178th Year of the County Board of Supervisors - October 24 2023 07:08:27 PM

October 24, 2023



1 AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION  
2 ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF OTTAWA  
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6 RESIDENTIAL DISTRICT  
7 (RZ126)  
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9 WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this  
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51

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