

***Rezoning  
Staff Report***

Planning & Zoning Commission Public Hearing Date: April 11, 2022

City Council Public Hearing Date: May 2, 2022

**Rezoning Case:** P22-072

**Property Owner(s):** Mehendi Maknojia

**Applicant(s):** Midstream and Terminal Services LLC

**Legal Description:** Being a portion Abstract Number 629 of the Jesse Pruitt Survey

**Location:** 21700-21800 blocks (east side) of Hufsmith-Kohrville Road, at 21830 Huffsmith-Kohrville Road, within Harris County, Texas.

**Area:** 3.07 acres

**Comp Plan Designation:** Neighborhood Residential (Exhibit “B”)

**Present Zoning and Use:** N/A (Exhibit “C”)  
Single Family Residence/Vacant Commercial Building(s) (Exhibit “D”)

**Request:** Rezone from Agricultural (AG) to Commercial (C) District

**Adjacent Zoning & Land Uses:**

- North:** Not Applicable / Undeveloped
- South:** Not Applicable/ Single Family Residence
- West:** Commercial (C) / Office, professional and general business
- East:** Not Applicable / Undeveloped

**BACKGROUND**

The subject property presently falls outside the City Limits of Tomball. The Tomball City Council is scheduled to consider the annexation of the subject property during the May 2, 2022, public hearing. Following the annexation of the subject property, an Agricultural (AG) zoning classification will become applicable. The property owner wishes to adopt a Commercial (C) zoning district following its annexation in order to allow a “Food Court – Restaurant and Bar”.

## **ANALYSIS**

**Description:** The subject property is approximately 3.07 acres located on the east side of Hufsmith Kohrville Road. Immediately south of the subject property is a single-family residence outside the City Limits within the City of Tomball's 1-mile Extraterritorial Jurisdiction (ETJ), the properties north and east of the subject property are currently undeveloped and also fall outside the City limits of Tomball. West of the subject property, across Hufsmith Kohrville Road, is an existing office building within Commercial (C) zoning as well as vacant property that falls within Single Family Estate Residential – 20 (SF-20) zoning. Based on historic aerial imagery, structures have existed on this subject property since at least 1944.

According to Section 50-77 in the City of Tomball Code of Ordinance; Commercial (C) districts “will typically utilize smaller sites and have operation characteristics which are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets is also a primary consideration.” The subject property is located along Hufsmith Khorville Road and near the intersection of Medical Complex Drive each of which are identified as major arterial streets in the City of Tomball's master thoroughfare plan. Additionally, the master thoroughfare plan identifies a proposed major arterial street running east and west immediately north of the subject property. Given the proximity to an intersection of two major streets, it would seem appropriate to locate some level of commercial activity within this area. However, because surrounding properties, north, east, and south of the subject property fall outside the city limits, zoning is not currently applicable and it is difficult to gauge exactly what uses may occupy these properties in the future. At this time the properties south of the subject property, appear to be predominately residential land uses, this includes a planned development district approximately .3 miles south of the subject property that was adopted in 2017. In 2016, property that is approximately 350-feet north of the subject property on the east side of Hufsmith Kohrville Road was rezoned from Agricultural (AG) to Commercial (C), a portion of this property has been developed with an office building the remainder is vacant at this time.

**Comprehensive Plan Recommendations:** The property is designated as “Neighborhood Residential” by the Comprehensive Plans Future Land Use Map. This Neighborhood Residential category is “intended for areas predominately comprised of single-family detached housing. While this area is primarily served by automobiles, the inclusion of sidewalks is important for both improved access and safety.”

According to the Comprehensive Plan, “land uses should focus on promoting safe and desirable neighborhoods, with single-family detached residential being the primary use. Secondary uses that are appropriate include parks, schools, and other public facilities. Limited commercial services and single-family attached residential that do not require large parking lots would be appropriate where residential collector streets meet arterials.

The Comprehensive Plan recommends zoning districts of SF-20-E (Single-Family Estate Residential-20), PD (Planned Development), SF-9 (Single-Family Residential-9), and SF-6 (Single-Family Residential 6).

Additionally, the Comprehensive Plan states – “The following considerations should be used as guidance for regulatory modifications or as part of decision making: Stormwater detention should be integrated into the community to act as an amenity. Subdivision should ensure connections to surrounding areas through enhanced sidewalks or multi-use sidepaths.

**Staff Review Comments:**

Conformance to the Comprehensive Plan: Given the lack of zoning due to the subject property and surrounding properties being located outside the city limits it is difficult to determine what the future holds for the surrounding area in regards to land use. The Future Land Use Map identifies the subject property as being within “Neighborhood Residential”, per the Comprehensive Plan such land use category may be suitable for “limited commercial services”. Traditional planning considers it to be customarily appropriate for some level of commercial activity to be located at or near the intersection of major arterial streets. Intersections such as this provide the level of accessibility, exposure, and volume of traffic that is typically necessary to ensure the success of commercial businesses. Taking this into consideration, coupled with the fact that Commercial (C) zoning districts presently exist within the surrounding area, the request seems generally consistent with the intent of the Comprehensive Plan and Future Land Use Map.

**PUBLIC COMMENT**

A Notice of Public Hearing was published in the paper and property owners within 200 feet of the project site were mailed notification of this proposal on March 30, 2022. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

**RECOMMENDATION**

Based on the findings outlined in the analysis section of this staff report, City staff recommends approval of Zoning Case P22-072.

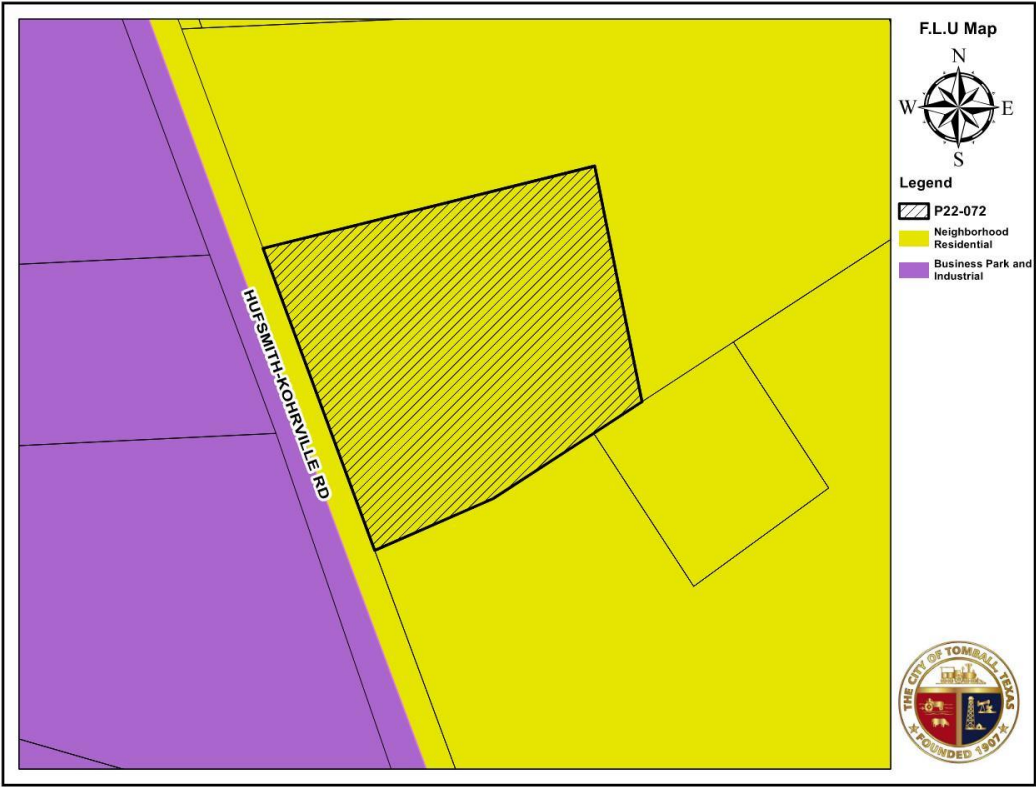
**EXHIBITS**

- A. Aerial Photo
- B. Comprehensive Plan
- C. Zoning Map
- D. Site Photo
- E. Rezoning Application

**Exhibit “A”  
Aerial Photo**



**Exhibit “B”  
Comprehensive Plan**



# Exhibit "C" Zoning Map





**Exhibit “D”  
Site Photo**



## Exhibit "E"

### Rezoning Application



RECEIVED (KC)  
03/11/2022

Revised: 4/13/2020  
P&Z #P22-072

### APPLICATION FOR RE-ZONING

Community Development Department  
Planning Division

**APPLICATION SUBMITTAL:** Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

#### Applicant

Name: Midstream and Terminal Services LLC Title: Consultant  
Mailing Address: 9950 Westpark Dr., Suite 426 City: Houston State: Texas  
Zip: 77063 Contact: Golam Mostofa  
Phone: (281) 253-4849 Email: gmostofa@midstream-terminal.com

#### Owner

Name: Mehendi Maknojia Title: Owner  
Mailing Address: 20830 Windrose Bend Dr City: Spring State: Texas  
Zip: 77379 Contact: Mehendi Maknojia  
Phone: (281) 839-5666 Email: macmehendi@gmail.com

#### Engineer/Surveyor (if applicable)

Name: Hovis Surveying Title: Surveyor  
Mailing Address: 5000 Cabbage St. City: Spring State: Texas  
Zip: 77379 Contact: Harry Hovis, RPLS  
Phone: (281) 320-9591 Fax: ( ) Email: hovis@hovissurveying.com

Description of Proposed Project: Bar and Restaurant

Physical Location of Property: 21830 Hufsmith Kohrville Rd, Tomball, Texas 77375

[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: Jesse Pruitt Survey, Abstract 629, Tomball Outlots No. 487, 489, 496, 498

[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: Not Defined or Not known

Current Use of Property: A commercial contractor's office

Proposed Zoning District: C - Commercial District

Proposed Use of Property: Bar and Restaurant

HCAD Identification Number: 0352960000525/0352960000529 Acreage: 3.070

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 [www.tomballtx.gov](http://www.tomballtx.gov)

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X Golan Mostafa 3/10/2022  
Signature of Applicant Date

X Richard 3/10/2022  
Signature of Owner Date



## **Submittal Requirements**

The following summary is provided for the applicant's benefit. However, fulfilling the requirements of this summary checklist does not relieve the applicant from the responsibility of meeting the regulations in the Zoning Ordinance, subdivision regulations, and other development related ordinances of the City of Tomball.

**Applications must be received by the City of Tomball at least 40 calendar days prior to the City Planning and Zoning Commission hearing date.**

- ☒ **Completed application form**
- ☐ **\*Copy of Recorded/Final Plat**
- ☒ **Check for \$400.00 + \$10.00 per acre (Non-Refundable)**
- ☒ **Letter stating reason for request and issues relating to request**
- ☒ **Conceptual Site Plan (if applicable)**
- ☒ **Metes & Bounds of property**
- ☐ **Payment of all indebtedness attributed to subject property must be paid with application or an arrangement in accordance with Section 50-36(a)(3) of the Code of Ordinances as cited below: N/A**

(No person who owes delinquent taxes, delinquent paving assessments, or any other fees, delinquent debts or obligations or is otherwise indebted to the City of Tomball, and which are directly attributed to a piece of property shall be allowed to submit any application for any type of rezoning, building permit, or plan review until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof to the City of Tomball shall have been first fully discharged by payment, or until an arrangement satisfactory to the City has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence of proof that all taxes, fees, etc.. have been paid, or that other arrangements satisfactory to the City have been made for payment of said taxes, fees, etc.)

**The City's staff may require other information and data for specific required plans. Approval of a required plan may establish conditions for construction based upon such information.**

**\*Legal Lot Information:** If property is not platted, a plat will be required to be filed with the Community Development Department unless evidence of a legal lot is provided. To be an unplatted legal lot, the applicant is required to demonstrate that the tract existed in the same shape and form (same metes and bounds description) as it currently is described prior to August 15, 1983, the date the City adopted a subdivision ordinance.

## Application Process

1. The official filing date is the date the application and fee are received by the City.
2. The City will review the application for completeness and will notify the applicant in writing within 10 days if the application is deemed incomplete.
3. Property owners within two-hundred (200) feet of the project site will be notified by letter within 10 calendar days prior to the public hearing date and legal notice will appear in the official newspaper of the City before the eighth calendar day prior to the date of the hearing.
4. A public hearing will be held by the Planning and Zoning Commission at 6:00 p.m. in the City Council chambers, unless otherwise noted. The Planning and Zoning Commission meetings are scheduled on the second Monday of the month. The staff will review the request with the Commission and after staff presentations the chair will open the public hearing. The applicant will have ten (10) minutes to present the request. The chair will then allow those present in favor of the request and those in opposition to the request to speak. The Commission may then ask staff or anyone present additional questions, after which the Commission may close or table the public hearing. The Commission may then vote to recommend approval or denial to the City Council. The Commission may also table the request to a future date before a recommendation is sent to the City Council.
5. A second public hearing will be scheduled before the City Council after fifteen (15) days of legal notice. The Council meetings are held on the first (1<sup>st</sup>) and third (3<sup>rd</sup>) Mondays of the month at 6:00 p.m. in the City Council chambers (401 Market Street, Tomball, Texas, 77375).
6. The City Council will conduct a public hearing on the request in the same manner as the Planning and Zoning Commission. In the event that there has been a petition filed with the City Secretary with twenty percent (20%) of the adjoining property owners in opposition to the subject zoning request, it will require a three fourths (3/4) vote of the full Council to approve the request. Upon approval of the request by the City Council, an amended ordinance shall be prepared and adopted. The ordinance shall have two separate readings and will be effective at such time that it is adopted by City Council and signed by the Mayor and attested by the City Secretary.

**FAILURE TO APPEAR:** It is the applicant/property owner's responsibility to attend all Planning and Zoning Commission and City Council meetings regarding their case. Failure of the applicant or his/her authorized representative to appear before the Planning and Zoning Commission or the City Council for more than one (1) hearing without approved delay by the City Manager, or his/her designee, may constitute sufficient grounds for the Planning and Zoning Commission or the City Council to table or deny the application unless the City Manager or his/her designee is notified in writing by the applicant at least seventy-two (72) hours prior to the hearing. If the agenda item is tabled the Planning and Zoning Commission shall specify a specific date at which it will be reconsidered.



9950 Westpark Dr., Suite 426, Houston, Texas 77063    **Phone:** (281) 404-4438; (281) 253-4849

**March 10, 2022**

**City of Tomball  
501 James Street  
Tomball, TX 77375  
Ph # (281) 290-1405**

Re: Zoning request with Annexation at 21830 Hufsmith-Kohrville Rd, Tomball, TX 77375

We are here by submitting our zoning application with all supporting documents for your review and approval.

Zoning is being requested for following property:

**Legal Description of the Property: 3.070 acres of land situated in the Pruitt Survey, Abstract Number 629, Harris County, Texas, being all of that certain called 3.070 acres of land described in deed and recorded in the Official Public Records of real Property of Harris County, Texas, under County Clerk's File Number RP-2021-678359, said 3.070 acres of land being more particularly described by metes and bounds (attached with this application).**

**Documents Attached:**

- Completed Application Form with signature attached
- Copy of recorded Plat/Final Plat is not available at this time
- Check for \$430.70 attached
- Letter Stating reason for request and issues relating to request attached
- Conceptual Site Plan attached
- Metes and Bounds Description attached
- Zoning Map with related to property location attached

Please feel free to contact us for any other information.

Sincerely,

Golam Mostofa, P.E., PMP  
On behalf of the owner



## DESCRIPTION

3.070 acres of land situated in the Jesse Pruitt Survey, Abstract Number 629, Harris County, Texas, being all of that certain called 3.070 acres of land described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number RP-2021-678359, said 3.070 acres of land being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod found in the Easterly right-of-way line of Huffsmith Kohrville Road (60 foot right-of-way) for the Northwestern corner of that certain called 5.5000 acres of land described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number P964270 and the Southwesterly corner of said 3.070 acre tract;

Thence, N 20°20'37" W, along the Easterly right-of-way line of said Huffsmith Kohrville Road, a distance of 389.00 feet to a 5/8 inch iron rod with cap found for the most Westerly Southwest corner of that certain called 5.678 acres of land described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number 20070687993;

Thence, N 76°00'34" E, along a Southerly line of said 5.678 acre tract, a distance of 412.84 feet to a 5/8 inch iron rod with cap found for an interior corner of said 5.678 acre tract;

Thence, S 11°23'19" E, along a Westerly line of said 5.678 acre tract, a distance of 290.49 feet to a 5/8 inch iron rod with cap found in the Northwestern line of that certain called 1.000 acre of land described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number X517792, for the most Southerly Southwest corner of said 5.678 acre tract;

Thence, S 56°48'54" W, along the Northwestern line of said 1.000 acre tract and the Northwestern line of said 5.5000 acre tract, a distance of 215.06 feet to an angle point;

Thence, S 66°29'50" W, continuing along a Northwestern line of said 5.5000 acre tract, a distance of 155.64 feet to the POINT OF BEGINNING and containing 3.070 acres of land.

BEARING ORIENTATION BASED ON TEXAS STATE PLANE COORDINATE GRID SYSTEM OF 1983, DERIVED FROM CORS SITE RODS.

TRACT BEING SHOWN ON MAP (SEE HSC 01516-E)

HOVIS SURVEYING COMPANY, INC.  
Texas Firm Registration No. 10030400

By: \_\_\_\_\_

Date: November 5, 2021  
Job No: 21-154-00  
Dwg No: HSC 01516-E-5  
File No: A21-154.00D  
Dwg File: 2115400.dwg  
Revised: March 10, 2022





City of Tomball, Texas  
**Zoning Map**  
 Adopted February 4, 2008  
 Current As of: August 25, 2021

