

**Rezoning
Staff Report**

Planning & Zoning Commission Public Hearing Date: November 13, 2023
City Council Public Hearing Date: November 20, 2023

Rezoning Case: Z23-18
Property Owner(s): Brian Mai
Applicant(s): Brian Mai
Legal Description: Lot 9, Block 1 of Main Street – Tomball
Location: 100 block (east) of Holderrieth Blvd. (Exhibit “A”)
Area: 0.172 acres
Comp Plan Designation: Neighborhood Commercial (Exhibit “B”)
Present Zoning: Single-Family Residential -6 district (Exhibit “C”)
Request: Rezone from the Single-Family Residential – 6 (SF-6) to General Retail (GR) district

Adjacent Zoning & Land Uses:

North: Single-Family Residential -6 (SF-6) & Commercial (C) / CVS Pharmacy

South: Single-Family Residential –6 (SF-6) / Single Family Residence

West: Commercial (C) / Printing Equipment Supplies & Repair

East: Commercial (C) / Auto Repair (Major)

BACKGROUND

The subject property has been within the City Limits of Tomball since at least 1938 and appears to have remained vacant since that time. In 2017, the property was the subject of a request for rezoning to Commercial (C) (P17-0036), this request was denied by City Council. The applicants are seeking a rezoning to General Retail (GR). According to the information provided by the applicant the intent is to rezone the property to allow uses such as retail shops, boutique stores, or professional offices.

ANALYSIS

Description: The subject property comprises approximately 0.17 acres, located in 100 block (east side) of Holderrieth Boulevard. The property is currently located within the Single Family Residential – 6 (SF-6) zoning and has been within this zoning classification since the City of Tomball adopted zoning in 2008. North of the subject property is split zoned Single Family Residential – 6 and Commercial, this property is occupied by a CVS pharmacy. East of the subject property is existing Commercial zoning occupied by an automotive repair shop.

South of the subject property is Single Family Residential – 6 zoning, within which a single family residence is located. West of the subject property (west of Holderrieth Boulevard) is Commercial zoning occupied by a printing equipment supplies and retail business.

Comprehensive Plan Recommendation: The property is designated as “Neighborhood Commercial” by the Comprehensive Plan Future Land Use Map. This Neighborhood Commercial land use category is intended to foster commercial uses that are developed with the appropriate context, scale, and design to compliment residential development. These are areas intended to be accessible by both vehicles and pedestrians.

According to the Comprehensive Plan, appropriate land uses within this land use category include restaurants, retail, professional services, clinics, and offices. Secondary uses include places of assembly or event venues, local utility services, and government facilities.

The Comprehensive Plan recommends the zoning districts of Office (O), General Retail (GR), or Planned Developments (PD) for the Neighborhood Commercial land use category.

Staff Review Comments:

The Comprehensive Plan endorses transitional zoning districts to “step down” land use intensities when rezoning properties. This is particularly true when considering commercial zoning districts near residential. The Neighborhood Commercial land use category identifies General Retail (GR) zoning as being appropriate for promoting land uses that will assist in achieving the goals and objectives of the land use category.

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed notification of this proposal on October 26, 2023. 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 Z23-18.

EXHIBITS

- A. Aerial Location Map
- B. Future Land Use Plan Map
- C. Current Zoning Map
- D. Site Photo(s)
- E. Rezoning Application

Exhibit "A"
Aerial Location Map



Location

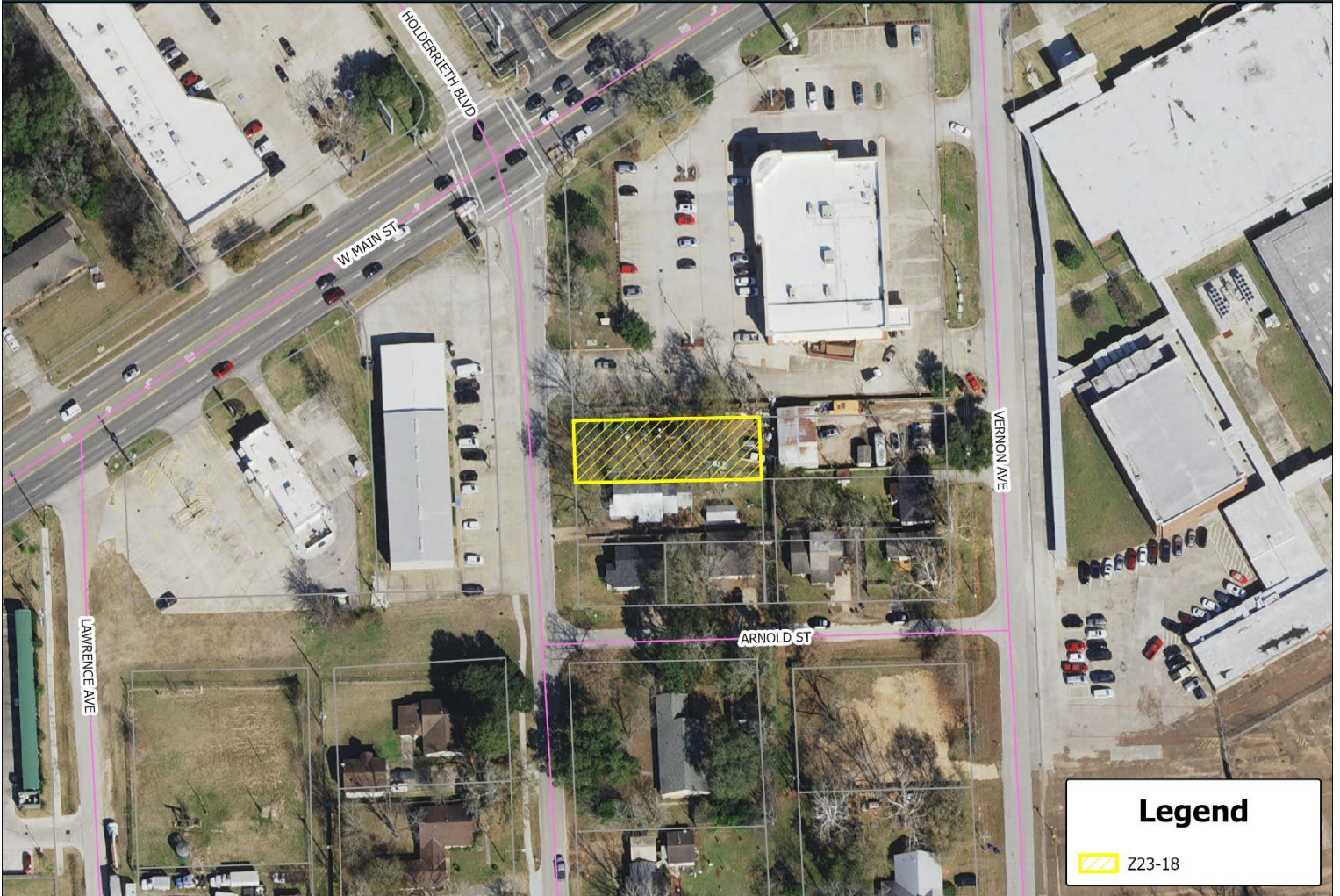
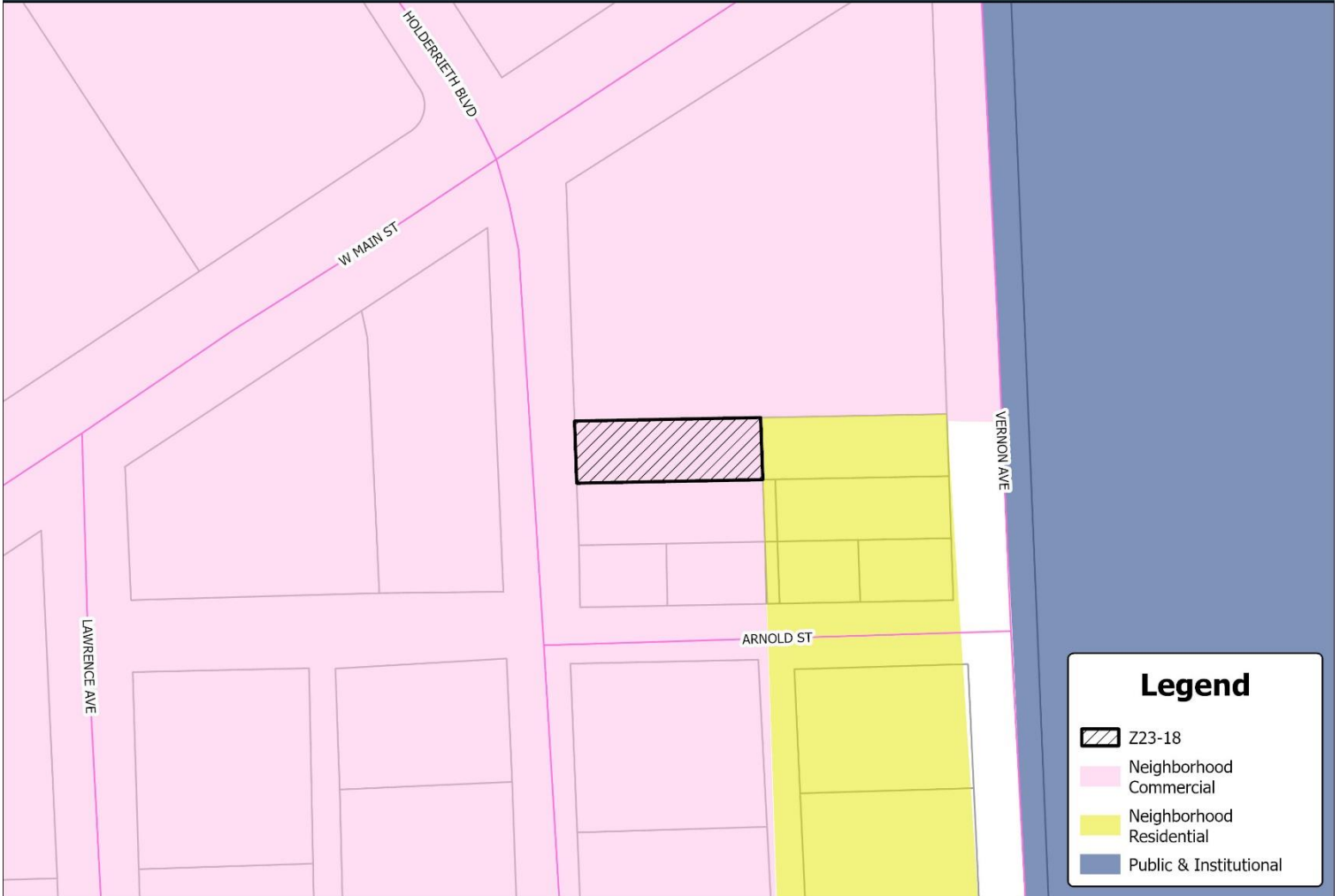


Exhibit "B"
Future Land Use Plan



Future Land Use



Legend

- Z23-18
- Neighborhood Commercial
- Neighborhood Residential
- Public & Institutional

Exhibit "C"
Zoning Map



Zoning



Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (West)



Neighbor (East)



Neighbor (North)



Neighbor (South)



Exhibit "E"
Rezoning Application

Revised: 10/1/2022



APPLICATION FOR RE-ZONING

Community Development Department
Planning Division

APPLICATION REQUIREMENTS: 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.

There is a \$1,000.00 application fee that must be paid at time of submission or the application will not be processed.

DIGITAL PLAN SUBMITTALS:

PLEASE SUBMIT YOUR APPLICATIONS AND PLANS DIGITALLY IN A SINGLE PDF BY FOLLOWING THE WEBSITE BELOW:

WEBSITE: tomballtx.gov/secure/send
USERNAME: [tombalcedd](#)
PASSWORD: [Tomball1](#)

Applicant

Name: Brian T. Mai Title: Owner
Mailing Address: 112 S Vernon Street City: Tomball State: TX
Zip: 77375 Contact: Brian Mai
Phone: (978) 761-8840 Email: maibrian08@gmail.com

Owner

Name: Brian T. Mai Title: Owner
Mailing Address: 112 S Vernon Street City: Tomball State: TX
Zip: 77375 Contact: Brian T. Mai
Phone: (978) 761-8840 Email: maibrian08@gmail.com

Engineer/Surveyor (if applicable)

Name: N/A Title: _____
Mailing Address: _____ City: _____ State: _____
Zip: _____ Contact: _____
Phone: (____) _____ Fax: (____) _____ Email: _____

Description of Proposed Project: Small commercial space may include retail shops, boutique stores, or Professional offices.

Physical Location of Property: Lot nine (9) in Block one (1) - Main Street - Tomball - Faced Holderrieth Bldv
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: LT9 BLK1 - MAIN STREET - TOMBALL
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: Single Family 20 Estate District

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.tomballtx.gov

Current Use of Property: vacant

Proposed Zoning District: General Retail (GR)

Proposed Use of Property: Small commercial space may include retail shops, boutique stores,
or Professional offices.

HCAD Identification Number: 0670990010009 Acreage: 0.172

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.

Brian Mai 09/15/2023
Signature of Applicant Date

Brian Mai 09/15/2023
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.

- **Application Fee: \$1,000.00**
- **Completed application form**
- ***Copy of Recorded/Final Plat**
- **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:**

(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 un-platted 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 (300) 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 (1st) and third (3rd) 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.

112 S. Vernon Street
 Lot Nine (9), and Fourteen (14) in Block One (1), of Main Street Addition to the City of
 Tomball, in Section 14 of the County of Harris, State of Texas, as more fully shown and
 described in Plat No. 4222 of the County Records of Harris County, Texas.



SURVEYOR'S CERTIFICATE

This plat is made in full accordance with the Surveyor's Oath and the provisions of the Texas Statutes relating to the Surveyor's Oath and the provisions of the Texas Statutes relating to the Surveyor's Oath and the provisions of the Texas Statutes relating to the Surveyor's Oath. The survey was conducted by me, the undersigned, on the date and at the place stated herein, and the results of the survey are set forth in this plat. I, the undersigned, am a duly licensed and sworn Surveyor in the State of Texas, and I am not under any disability which would prevent me from performing my duties as a Surveyor. I am not under any disability which would prevent me from performing my duties as a Surveyor. I am not under any disability which would prevent me from performing my duties as a Surveyor.

Witness my hand and seal this 14th day of February, 2020.
 C.A. Frazier
 Registered Professional Land Surveyor No. 4222



NOTES:
 1. THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE TEXAS SURVEYING ACT AND THE TEXAS PROFESSIONAL LAND SURVEYOR'S OATH.
 2. THE SURVEY WAS CONDUCTED ON THE DATE AND AT THE PLACE STATED HEREIN.
 3. THE SURVEY WAS CONDUCTED BY ME, THE UNDERSIGNED, AND I AM NOT UNDER ANY DISABILITY WHICH WOULD PREVENT ME FROM PERFORMING MY DUTIES AS A SURVEYOR.

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 www.cbcg.com

TEXAS LAND TITLE SURVEY
 LOT 9 & 14, BLOCK 1 OF MAIN STREET ADDITION
 CITY OF TOMBALL, HARRIS COUNTY, TEXAS
 112 S. VERNON STREET

Brian T. Mai
112 S Vernon Street
Tomball, TX 77375
maibrian08@gmail.com
(978)761-8840

September 15, 2023

City Zoning and Planning Commission
501 James Street
Tomball, TX 77375

Subject: Request for Rezoning of Residential Vacant Lot to Commercial Use

Dear City Zoning and Planning Commission,

I hope this letter finds you in good health and high spirits. I am writing to respectfully request your consideration for the rezoning of a residential vacant lot located adjacent to a commercial lot in our beloved city. This proposal aims to convert the aforementioned lot from its current residential zoning to commercial use. I would like to outline the reasons for this request and address the pertinent issues relating to this matter.

Firstly, it is important to acknowledge the evolving needs of our community. As our city continues to grow and flourish, it is crucial that we adapt our zoning regulations to accommodate the changing landscape. The proximity of the residential vacant lot to an existing commercial lot presents an opportunity to foster economic growth and development in the area. By rezoning this lot for commercial use, we can attract new businesses, create employment opportunities, and enhance the overall vibrancy of our community.

Furthermore, rezoning this residential lot to general commercial use aligns with the city's long-term vision for strategic urban planning. The current zoning classification may not fully utilize the potential of this land. By embracing a more versatile zoning designation, we can optimize land use efficiency and encourage responsible development that aligns with the city's goals and objectives.

I understand that rezoning decisions must be made with careful consideration of potential impacts on the surrounding environment and nearby residents. However, I would like to assure you that this proposal has been thoroughly evaluated to minimize any adverse effects. We are committed to working closely with city planners, environmental agencies, and neighborhood associations to conduct comprehensive impact assessments, implement appropriate mitigation measures, and ensure that any potential concerns are addressed.

In conclusion, the rezoning of the residential vacant lot adjacent to the commercial lot to commercial use holds immense potential for our city's growth, economic prosperity, and community development. I kindly request that you carefully review and consider this proposal, taking into account its alignment with the city's long-term vision and the opportunities it presents for our community.

Thank you for your time, attention, and dedication to serving our city. I remain at your disposal for any further information or clarification you may require. I am confident that together, we can make informed decisions that will enhance the quality of life for all city residents.

Yours sincerely,

Brian Mai

Brian T. Mai