



**PLANNING DIVISION  
STAFF REPORT**

**Board of Adjustment**

**June 5, 2024**

CASE No.: <b>BOA24-00051</b>	PROJECT NAME: <b>Harris Mallory</b>
Owner's Name:	Harris Mallory LLC
Applicant's Name:	Jessica Sarkissian
Location of Request:	Within the 2400 to 2500 blocks of North Harris Drive (west side). Located north of McKellips Road and west of Gilbert Road.
Parcel No(s):	136-05-002N
Nature of Request:	Requesting a Special Use Permit (SUP) to allow the aggregate area of all detached buildings to exceed the square footage of the primary residence within the Single Residence 43 (RS-43) District, a SUP to allow two non-resident employees working at a home occupation site in the RS-43 District, a Variance to exceed the maximum fence height in the required front yard setback in the RS-43 District, and a Variance to allow a detached building to be located between the principal dwelling and the front property line in the RS-43 District.
Zoning District:	Single Residence 43 (RS-43)
Council District:	1
Site Size:	3.5± acres
Existing Use:	Vacant
Hearing Date(s):	June 5, 2024 / 5:30 p.m.
Staff Planner:	Emily Johnson, Planner I
Staff Recommendation:	APPROVAL with Conditions

**HISTORY**

On **June 6, 1970**, City Council annexed 1,395± acres of land, including the project site, into the City of Mesa and subsequently zoned the property Single Residence 43 (RS-43) (Ordinance No. 672).

On **April 9, 2002**, the Planning Director approved a land split of 7.1± acres, creating two lots, and the project site is Lot 2 (Case No. LS02-003, Recording No. 2002-0465811).

## PROJECT DESCRIPTION

### **Background:**

The applicant is requesting a Special Use Permit (SUP) to allow the aggregate area of all detached accessory buildings to exceed 100% of the square footage of the primary residence in order to construct a 17,230 square foot detached structure, identified on the submitted site plan as the barn, which includes a private indoor basketball court, gym, office areas, and shop. The second detached structure is a 354 square foot pool cabana.

Per Section 11-30-17(B)(8) of the Mesa Zoning Ordinance (MZO), in the Single Residence 43 (RS-43) district, where multiple detached accessory buildings exist, the aggregate area of all such detached buildings may not exceed the square footage of the primary residence, unless approved by a Special Use Permit (SUP). The proposed project includes a 6,832 square foot primary residence and the aggregate area of the detached structures, the barn and the pool cabana, is 17,584 square feet. Approval of the SUP will allow for the aggregate area of all detached structures to be 257% of the main residence.

The applicant is requesting a second SUP to allow two non-resident employees to work at a home occupation site. Per the narrative, the residents have multiple home-based, family businesses including a sports marketing business.

Per Section 11-31-33 of the MZO, home occupations are permitted in all residence districts with the following standards:

1. There is no nonresident employee working at the Home Occupations site,
2. There is no commercial storage on the Home Occupations site, interior or exterior,
3. The Home Occupations site is not used for day-long or other long-term parking of vehicles used by non-resident employees, or clients for personal or business use,
4. Any short-term employee or client parking that is needed occurs on the Home Occupations property or on the street immediately in front of the residence; and
5. There is no exterior indication of nonresidential use, outside of a one, non- illuminated, static message sign of no more than 3 square feet in area attached to the building or placed in a window.

Per Section 11-31-33(B)(2) of the MZO, in the RS-43 district, home occupations that are not in conformance with the items listed above, shall require approval of a SUP and the SUP is limited to no more than 2 non-resident employees, among other things. Per the applicants, the home occupation will have no more than two non-resident employees and will have one on-site, independently accessed parking space for each employee on a dust-proof surface. Business will be conducted entirely indoors with no commercial storage or exterior signage so the site will look and function as residential. Approval of the SUP will allow for the two non-resident employees at a home occupation in the RS-43 district.

A variance is being requested by the applicant to exceed the maximum fence height in the required front yard setback. There is an existing six-foot free standing wall on the project site's east property line along Harris Drive.

Per Section 11-2-3(K) of the MZO, the front of a lot is the narrowest dimension of the lot with street frontage. This would make Harris Drive the front of the subject property. Per Section 11-30-4(A)(1) of the MZO, no opaque or non-transparent fence or freestanding wall within or along the exterior boundary of the required front yard shall exceed a height of 3.5 feet. Fences or freestanding walls over 3.5 feet high are allowed in front yards, provided the fence or freestanding wall does not exceed a maximum height of 4.5 feet, and the topmost 1.5 feet is visually transparent and not opaque. The request is for a solid six-foot wall along the east (front) property line adjacent to Harris Drive.

An additional variance is being requested to allow a detached building to be located between the principal dwelling and the front property line. The detached barn structure is proposed to be located on the eastern side of the site along Harris Avenue, between the dwelling and the front property line.

Per Section 11-30-17(B)(5) of the MZO, detached accessory structures are permitted in RS districts provided that they shall not be located in the required front yard or in the area between the front of the principal dwelling and the front property line. The proposed detached building is not located within the required front yard. This variance would allow the detached barn structure to be built between the primary dwelling and the front property line, Harris Drive.

**General Plan Character Area Designation and Goals:**

The Mesa 2040 General Plan character area designation on the property is Neighborhood with the Suburban sub-type. Per Chapter 7 of the General Plan, the focus of the Neighborhood character area is to provide safe places for people to live where they can feel secure and enjoy their surrounding community. Suburban neighborhoods are primarily single residence in nature with most lots ranging in size from 6,000 sq. ft. to 18,000 sq. ft. The proposed single residence, detached structures, and home occupation complies with the General Plan's Neighborhood character area designation for the property.

**Site Characteristics:**

The project site is located north of McKellips Road and west of Gilbert Road. It is 3.5± acres and zoned Single Residence 43 (RS-43). The site is currently vacant, and the proposal is to develop a single-family residence and detached buildings. Main access to the site is provided from an ingress-egress easement, located adjacent to the south property line and accessed from Harris Drive, with secondary access directly off Harris Drive leading to separate parking spaces for non-resident employees for the home occupation.

Per Table 11-32-3.A of the MZO, the minimum parking for a residence is two spaces per dwelling. The proposed project includes one dwelling unit with a four-car garage, which meets the parking requirements. Per Section 11-31-33(B)(2)(b) of the MZO, one on-site, independently accessed parking space may be provided to each non-resident employee. The parking space(s) shall be located on a dustproof surface. A total of two paved parking spaces are provided for the two non-resident employees accessed from Harris Drive and located north of the detached barn structure.

**Surrounding Zoning Designations and Existing Use Activity:**

<b>Northwest</b> (Across South Canal) RS-43 Single Residence	<b>North</b> (Across South Canal) RS-43 Single Residence	<b>Northeast</b> RS-15-PAD Single Residence
<b>West</b> RS-43 Single Residence	<b>Subject Property</b> RS-43 Vacant	<b>East</b> (Across Harris Dr) RS-15 Single Residence & Park
<b>Southwest</b> RS-43 Single Residence	<b>South</b> RS-43 Single Residence	<b>Southeast</b> (Across Harris Dr) RS-15 Single Residence & Park

**Mesa Zoning Ordinance Requirements and Regulations:**

**Zoning Ordinance, Section 11-30-17(B)(8) – Special Use Permit to allow the aggregate area of all detached buildings to exceed the square footage of the primary residence.**

Per Section 11-70-5(E) of the MZO, the Board of Adjustment shall grant a Special Use Permit upon finding the following criteria are met for approval of a SUP:

1. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;

**The accessory use is larger than the primary home as it contains home offices for the residents’ home-based businesses and a large gymnasium for personal use. Per the narrative, it is the wish of the resident not to have the office or indoor court uses attached to their main single-family residence. The site is designed and will be used for residential purposes, as the office use is incidental and contributes to the comfort, convenience, and necessity of the occupants, meeting the goals of the Neighborhood character area in the Mesa 2040 General Plan.**

***The proposal meets this criterion.***

2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and any other applicable City plan or policies;

**Per the narrative, the location, size, design and operating characteristics are residential. It is a residential home with residential design, landscaping and access with the owner residing on site. All of the buildings conform with the zoning code and will meet the requirements for setbacks and lot coverage for the RS-43 zoning district. The detached buildings will match the architecture of the proposed home so it will look and function as one cohesive property. The size of the lot itself is 150,247± square feet which is**

almost 345% the size of the minimum lot area for RS-43 which is 43,560 square feet. A detached structure larger than the dwelling will not be burdensome on this size lot.

*The proposal meets this criterion.*

3. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and

**The proposed accessory structures will not be detrimental to the surrounding properties or neighborhood as the same required setbacks, lot coverage and height for the site will be met. Additionally, the design and architecture of the accessory building will be the same quality and design as the primary residence and be an attractive accessory structure which is custom designed.**

*The proposal meets this criterion.*

4. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

**This use is served by the City of Mesa for gas, water and sewer and SRP for electricity.**

*The proposal meets this criterion.*

**Zoning Ordinance, Section 11-31-33(B)(2) – Special Use Permit to allow two non-resident employees working at a home occupation site.**

Per Section 11-70-5(E) of the MZO, the Board of Adjustment shall grant a Special Use Permit upon finding the following criteria are met for approval of a SUP:

1. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;

**Though there will be two non-resident employees on site, the use will remain large lot residential while also providing home occupation opportunities for the family businesses. The use meets the goals of the Neighborhood character area and the development will contribute to the large lot feel of the neighborhood.**

*The proposal meets this criterion.*

2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and any other applicable City plan or policies;

**The proposed use of a home occupation is permitted in the RS-43 district and the district is listed as one that can apply for a SUP to allow no more than two non-resident employees. The use will remain large lot residential and provide home occupation opportunities for the family businesses.**

***The proposal meets this criterion.***

3. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and

**Per the applicant, the proposal to have up to two non-resident employees work at the home will be negligible and unnoticeable from surrounding properties. The site is setback from the roadway, enclosed with fencing, and will provide onsite parking areas for the residents and two separately accessible dustproofed parking spaces for the two non-resident employees. Business will be conducted entirely indoors with no commercial storage or exterior signage.**

***The proposal meets this criterion.***

4. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

**This use is served by the City of Mesa for gas, water and sewer and SRP for electricity.**

5. In addition to the above Special Use Permit criteria, Section 11-31-33(B)(2) includes additional standards for home occupations that require a Special Use Permit. The SUP shall be limited as follows:
  - a. No more than 2 two non-resident employees
  - b. One on-site, independently accessed parking space provided for each non-resident employee. The parking space(s) shall be located on a dust-proof surface, and shall be in addition to required minimum parking for the residence;
  - c. Any commercial storage occurs entirely within an enclosed structure; and
  - d. The primary residence, and all accessory buildings and structures, shall comply with the requirements of Section 11-5-3 and 11-5-7(B)

***The proposal meets this criterion.***

**Zoning Ordinance, Section 11-30-4(A)(1)(a) – Variance to exceed the maximum fence height in the required front yard setback.**

Per Section 11-80-3 of the City of Mesa Zoning Ordinance, the Board of Adjustment shall find upon sufficient evidence when making a decision on variances that:

1. There are special circumstances applicable to the property, including its size, shape, topography, location, or surrounding;

Per the applicant, the proposed project and the existing home to the west are oriented facing south due to the access via an ingress-egress easement, not Harris Drive. This makes the eastern property line, where the existing six-foot wall is located, effectively a side yard. Per Section 11-30-4(A)(1)(b) of the MZO, no fence or freestanding wall within or along the exterior boundary of the required side or rear yards shall exceed a height of six feet, so if Harris Drive was viewed as the side yard, the wall would comply with the MZO. This variance request is to allow the existing six-foot wall to remain in the front yard (adjacent to Harris) which, per code, would not be permitted to exceed 3.5 feet.

*The proposal meets this criterion.*

2. That such special circumstances are pre-existing, and not created by the property owner or appellant;

As seen in Maricopa County historic aerials, the orientation of the residence to the south, the existing wall, and other improvements along Harris Drive can be seen starting in December 2003. This is a pre-existing condition that was not created by the current property owner.

*The proposal meets this criterion.*

3. The strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;

Strict application of the zoning ordinance would require the existing wall to be altered to reduce the height, or demolished. The zoning code only recognizes the front yard as the part of the lot with the narrowest dimension with street frontage, which is Harris Drive. The home itself is proposed to be oriented south, like the adjacent property to the west, because the main access is from the easement to the south. This effectively makes the eastern property line the side yard where other property owners would be able to have a six-foot wall. The owner wishes to retain the existing freestanding wall along Harris at six feet in height to maintain privacy to their property as adjacent properties have as well.

*The proposal meets this criterion.*

4. Any variance granted will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

Per the narrative, the variance will allow for the development of the vacant parcel and allow it to blend in with the surrounding community with large estate type lots and accessory uses. It will not be an exception to how other properties nearby and in the community have developed. Orienting the house to the south vs. Harris Drive and

allowing the six-foot block wall to remain is similar to the adjacent properties in the community and is not a special privilege.

*The proposal meets this criterion.*

**Zoning Ordinance, Section 11-30-17(B)(5) – Variance to allow a detached building to be located between the principal dwelling and the front property line.**

Per Section 11-80-3 of the City of Mesa Zoning Ordinance, the Board of Adjustment shall find upon sufficient evidence when making a decision on variances that:

1. There are special circumstances applicable to the property, including its size, shape, topography, location, or surrounding;

The project site is situated just south of the canal and combined with the adjacent cul-de-sac to the north, the parcel is oddly shaped. The surrounding property, specifically the one adjacent to the west, was built with its entry oriented south and is accessed from the existing ingress-egress easement. Technically, the east property line along Harris Drive is considered the front yard per the Zoning Ordinance. The proposed project is also planned to be accessed from the south, effectively making the southern property line the front yard, while Harris Drive would be utilized as a side yard.

*The proposal meets this criterion.*

2. That such special circumstances are pre-existing, and not created by the property owner or appellant;

In 2002 the adjacent property owner split the then 7.1± acre site into two parcels per case no. LS02-003. The owner of the western parcel (APN 136-05-002J) built their residence oriented south utilizing a non-dedicated access road connection to Harris Drive. The western residence fronts the non-dedicated roadway to the south and the owner of the project site wishes to have their house front that same access. If Harris Drive is treated as the side yard, then the detached building would be located to the side of the main residence.

*The proposal meets this criterion.*

3. The strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;

The surrounding property, specifically the one adjacent to the west, was built with its front entry oriented south. The applicant wishes to build the proposed residence with the same orientation but with strict application of the zoning ordinance, which recognizes the front yard as the part of the lot with the narrowest dimension with street frontage, Harris Drive would be the front yard and the detached structure would be in

front of the main dwelling. Again, if Harris Drive was not the front yard, then this variance would not be required.

*The proposal meets this criterion.*

4. Any variance granted will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

**Per the narrative, the variance will allow for the development of the vacant parcel and allow it to blend in with the surrounding community with large estate type lots and accessory uses. With the orientation of the proposed project facing south and the 6-foot wall on the east property line along Harris Drive, it will not look like or function as a detached structure located in front of the main dwelling unit and will not be an exception to how other properties nearby and in the community have developed.**

*The proposal meets this criterion.*

Findings:

- A. The property was annexed into the City of Mesa in 1970 and subsequently zoned RS-43.
- B. The existing six-foot wall was constructed before December 2003 per Maricopa County historic aerials.
- C. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies.
- D. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and any other applicable City plan or policies.
- E. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City.
- F. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.
- G. There are special circumstances applicable to the shape of the project site.
- H. Special circumstances are pre-existing including the orientation of the adjacent property and the existing six-foot wall.
- I. Strict application of the zoning ordinance would deprive the property of privileges enjoyed by other surrounding properties.
- J. Any variance granted will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

**Neighborhood Participation Plan and Public Comments:**

The applicant sent the required notification letters to all property owners within 500 feet of the site. As of this report, staff has received one letter in support of the proposed project from the neighbors directly to the west.

**Staff Recommendation:**

Based on the application received and preceding analysis, staff finds the proposed SUPs conform to the required findings for a Special Use Permit outlined in Section 11-70-5 of the MZO and the requested variances meet the approval criteria outlined in Section 11-80-3 of the MZO; therefore, staff recommends **approval** with the following conditions.

**Conditions of Approval:**

1. Compliance with the final site plan submitted.
2. Compliance with all City Development Codes and regulations.

**Exhibits:**

Exhibit 1 – Vicinity Map

Exhibit 2 – Staff Report

Exhibit 3 – Narrative and Justification Statement

Exhibit 4 – Site Plan

Exhibit 5 – Elevations

Exhibit 6 – Letter of Support