

## **Board of Adjustment**

### *Staff Report*

**CASE NUMBER:** BA14-064  
**STAFF PLANNER:** Gordon Sheffield, AICP CNUa; Zoning/Civil Hearing Administrator  
**LOCATION/ADDRESS:** 134S South Alma School Road  
**COUNCIL DISTRICT:** 3  
**OWNER:** HV and Canal, LLC  
**APPLICANT:** Feed My Starving Children  
**ATTORNEY:** Susan Demmitt, Gammage and Burnham

**REQUEST:** – *Requesting an interpretation of a proposed land use involving education, office, retail, food packaging, warehouse and product distribution activities for a non-profit organization located in the LC zoning district.*

#### **SUMMARY OF APPLICANT'S REQUEST**

Feed My Starving Children (FMSC) is a faith-based, non-profit organization with a mission to provide nutritional food to people in need of such assistance, with a principal focus on feeding children. FMSC is headquartered in Minnesota, but has a regional office currently in Tempe. They are proposing to move the Tempe office to a location in Mesa at 1345 South Alma School Road (the Mesa Fiesta Center). This location is zoned LC-Limited Commercial.

This specific request asks the Board to determine the principal or 'primary' land use classification that best describes, on an aggregate basis, the range of activities that take place at FMSC. Then, once the land use classification is determined, the appropriate zoning district that will allow that classification may also be determined.

Based upon the most recent narrative and floor plan (see letter to Gordon Sheffield from Pat Swanke, dated November 19, 2014), the applicant is suggesting that their facility be classified as a 'community center.'

#### **STAFF RECOMMENDATION**

Staff is not making a specific recommendation on this request and leaves the final determination of land use classification to the Board. However, should the Board determine that the land use is classified as an activity that is permitted in the LC zoning district (the zoning district that applies to the requested location), then the following conditions are recommended to be attached to the Board's decision:

1. *This interpretation is not in any way transferable to a different tenant, to a different location, or to a set of facts that differ from what has been presented to the Board of Adjustment. This interpretation applies only to FMSC, and shall remain in effect only if FMSC remains a non-profit organization.*
2. *FMSC shall comply with any and all requirements of the Mesa Building Code, including any requirements that relate to possible changes to the Certificate of Occupancy for this tenant space as a result of tenancy by FMSC.*

3. *The floor area being set aside for activities such as office, classroom, retail, packaging, and prayer shall, in aggregate, account for a minimum of 51% of the floor area of the occupied tenant space. The area designated as set aside for storage and shipping of the food materials may not be included with aggregate floor area calculation of the office, classroom, retail, packaging, and prayer areas. The submitted floor plan may need to be modified at least slightly to satisfy this condition.*
4. *The packaging activity shall not be mechanized, and shall remain a 'by hand' process. Exceptions may be made for the sealing of the food packets by electric sealing devices. Outside of the use of hand tools and scales, machines may not be used to portion or measure food materials, or load individual food packets into boxes and larger shipping/cargo containers. Fork lifts and similar devices may be utilized to load and unload palletized boxes, cargo containers and other shipping devices.*
5. *The meal re-packaging activity shall be completed exclusively by volunteers, with reasonable exceptions given to FMSC staff serving as instructors to volunteer groups that would otherwise complete the meal re-packaging tasks.*
6. *The meal packets assembled at this location may not be sold or used for commercial purposes.*
7. *This interpretation in no way shall be extended to mean that uses classified under the broader heading of 'Employment Classifications' in Table 11-6-2 of the Mesa Zoning Ordinance are otherwise permitted at this location, unless such Employment Classification is specifically listed in that table as an allowed land use activity in the LC-Limited Commercial zoning district.*
8. *Any construction or site plans submitted to the Development and Sustainability Department that are related to a change to the Certificate of Occupancy, or to permits associated with Tenant Improvements shall include a copy of this letter to facilitate the review of the documents.*

#### **SITE CONTEXT**

**CASE SITE:** Group Commercial Center (known as Mesa Fiesta), zoned LC-PAD

**NORTH:** (across Grove Ave) Fiesta District Police Precinct-Station, zoned PS-PAD; and  
A group commercial center, zoned LC-PAD

**EAST:** (across Westwood) Fiesta Lakes 9-hole golf course (zoned LC and RM-4); and  
Two distinct hotels, both zoned LC

**SOUTH:** (across Holmes Ave) Phoenix-Mesa Hilton hotel and conference center, parking lot, and a  
restaurant, zoned LC-BIZ

**WEST:** (across Alma School Rd) Fiesta Mall and perimeter commercial pad sites, zoned LC

#### **STAFF SUMMARY AND ANALYSIS:**

FMSC is a non-profit agency that provides participants with an opportunity to learn more about the issue of malnutrition, and then engage in an assembly/packaging activity designed to further the education and to help address the problem. To that end, the proposed tenant space includes floor area devoted to storage and

shipping of food materials, a packaging area in which food materials in bulk-sized containers are repackaged into smaller meal-sized packets, and then placed in boxes and shipping containers for distribution. This repackaging activity is largely completed by volunteers under the direction of FMSC staff. Other activities also proposed to be taking place at this location include regional offices for FMSC staff; classroom space for educating volunteers about the problems of malnutrition and introducing them to the repackaging activity; and a small retail shop selling items crafted by individuals helped by the food assistance provided by FMSC. Once the food packets are completed by the volunteers, the packets are boxed, and then shipped to a participating community, most of which are outside the immediate Phoenix-Mesa area. Each packet is about the size of a 1-quart zip-seal bag, or large enough for one meal for one average-sized family. Upon entry, volunteers are met and then attend a brief classroom session, shown how to load a packet with food materials and then seal it. These volunteers are then counseled on the activities with which they have just participated. Time is spent in community prayer, and for question and answer sessions.

When the Zoning Administrator was first presented with the question of how to classify this land use, the focus was more on the re-packaging operations, and less on the office, retail or classroom activities. For this reason, an initial interpretation was made last August to classify the use as a Warehouse and Storage (with distribution) activity. Warehouse and Storage is an activity classified broadly as an Employment and Industrial land use, and typically allowed in industrial zoning districts, such as LI – Light Industrial. It is not a permitted land use in the LC-Limited Commercial district. The applicant then asked for reconsideration, and a field visit to the existing Tempe facility was arranged. This visit de-emphasized the packaging activity as a primary use, and brought additional emphasis to the classroom experience of the volunteers, and to the experiential educational activity of filling the food packets. The visit also brought attention to the small retail store, and to the expanded office area that would be developed at their relocated facility. The request to reconsider the interpretation was allowed, and FMSC filed additional information to supplement the activities observed at the Tempe facility.

The applicant's November 19, 2014 letter suggests that the range of activities conducted by FMSC should be classified as a 'community center'. While this classification describes a noncommercial facility, the classification also defines the use as being "... established primarily for the benefit and service of the population of the community in which it is located." This idea behind a benefit and service of the population is one item that is at question.

One argument in favor is that the individuals participating in the FMSC activities are drawn to this facility to do something for the greater good. The 'benefit and service' are related to the act of the local community's participation in doing something good for society at large. The counter argument is that the benefit of the results of the FMSC activity is largely directed to locations outside of Mesa, and is therefore not specifically benefitting the local population.

Alternative activity classifications to consider include a College or Trade School, a Place of Worship, Handicraft/Custom Manufacturing, Light Assembly/Cabinetry, or possibly Small-scale Commercial Recreation.

**ORDINANCE REQUIREMENTS:**

**Zoning Ordinance, Section 11-66-7.B - Authority and Duties of the Zoning Administrator:** The Zoning Administrator is the city official established pursuant to ARS Sec 9-462.05 and charged with the responsibility for enforcement of the zoning ordinance. In addition, the Zoning Administrator shall:

- B. Interpret the Zoning Ordinance to the public, City Departments, and other branches of government, subject to the supervision of the Planning Director and subject to general and specific policies established by the City Council ...

**Zoning Ordinance, Section 11-66-7.D.4 – Appeals to the Zoning Administrator:**

4. The Zoning Administrator may refer any matter on which he is authorized to rule directly to the Board of Adjustment.

**Zoning Ordinance, Section 11-66-3.C.1.b – Authority and Duties of the Board of Adjustment**

1. The Board of Adjustment Shall:
  - b. Hear and decide appeals from the action of the Zoning Administrator in ..... the interpretation of the provisions of this (Zoning) Ordinance.

**ZONING ORDINANCE, CHAPTER 86 – LAND USE CLASSIFICATIONS**

**Zoning Ordinance, Section 11-86-3 – Public/Semi-Public Use Classifications**

**Colleges and Trade Schools, Public or Private.** Post secondary educational institutions providing curricula of a general, religious or professional nature, typically granting recognized certification of professional training and/or accredited degrees, including conference centers and academic retreats associated with such institutions. This classification includes business and computer schools, management training, technical and trade schools, but excludes personal instructional services, such as music lessons. Incidental training or instruction done in conjunction with an on-site business use permitted as a primary activity in the zoning district shall not be considered a business or trade school.

**Community Center.** Any noncommercial facility established primarily for the benefit and service of the population of the community in which it is located. Examples include youth centers and senior centers. This classification excludes community facilities operated in conjunction with an approved residential or commercial use that are not generally available to the public.

**Places of Worship.** A facility for religious worship and incidental religious education and offices, and may include private schools (Grades: Kindergarten through 12) for primary or secondary education, as defined in this section. This classification includes churches, temples, and other facilities used primarily for religious services or activities.

**Zoning Ordinance, Section 11-86-4 – Commercial Use Classifications**

**Banquet and Conference Centers.** Facilities that are rented for short-term events such as weddings, receptions, banquets, and conferences, as a principal business activity (not accessory to another use such as a Place of Worship or Community Center).

**Commercial Recreation.** Provision of participant or spectator recreation to the general public, excluding public park and recreation facilities.

**Small-Scale.** This classification includes small, generally indoor facilities, that occupy less than 50,000 square feet of building area, such as billiard parlors, bowling centers, card rooms, dance studios, exercise studios, health clubs, yoga studios, dance halls, small tennis club facilities, poolrooms, and amusement arcades. This classification may include restaurants, snack bars, and other incidental food and beverage services to patrons.

**Offices**

**Business and Professional.** Offices of firms or organizations providing professional, executive, management, administrative or design services, such as accounting, architectural, computer software design, engineering, graphic design, interior design, investment, and legal offices.

**Retail Sales**

**General.** The retail sale or rental of merchandise not specifically listed under another use classification. This classification includes department stores, clothing stores, furniture stores, pet supply stores, small hardware stores (with 25,000 square feet or less of floor area), and businesses retailing the following goods: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies and services (including portraiture and retail photo processing), medical supplies and equipment, pharmacies, electronic equipment, records, sporting goods, kitchen utensils, hardware, appliances, antiques, art galleries, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, video rental, and new automotive parts and accessories (excluding vehicle service and installation). Retail sales may be combined with other services such as office machine, computer, electronics, and similar small-item repairs. This classification includes secondhand and wholesale stores.

**Zoning Ordinance, Section 11-86-5 – Employment and Industrial Use Classifications**

**Handicraft/Custom Manufacturing.** Manufacture of crafts, art, sculpture, stained glass, jewelry, apparel, furniture, cabinet making, and similar items using hand tools and small mechanical devices.

**Light Assembly/Cabinetry.** Putting together, fabricating, or making minor modifications to pre-manufactured items or pre-cut lumber as a last step for items intended to be sold as finished products. Includes assembling cabinets, furniture making and welding of pre-made parts, but excludes metal extrusion, sawmills, and manufacturing.

**Warehousing and Storage.** Storage and distribution facilities with limited sales to the public on-site or restricted direct public access.

**Indoor Warehousing and Storage.** Storage within an enclosed building of commercial goods prior to their distribution to wholesale and retail outlets and the storage of industrial equipment, products and materials including but not limited to automobiles, feed, and lumber. Also includes cold storage, draying or freight, moving and storage, and warehouses. This classification excludes the storage of hazardous chemical, mineral, and explosive materials.

#### RELATED CONSIDERATIONS

**Parking:** Should the Board agree with the applicant, and interpret this use to be a 'community center', then the interpretation results in a higher parking ratio being applied to this tenant space than the 'commercial shell space' parking ratio used for the initial design.

Regardless of what classification is decided, and before occupancy of this tenant space (by FMSC or anyone else), or any construction documents are submitted for tenant improvements, evidence will need to be presented to Mesa Planning Division staff that the total number of parking spaces provided for this group commercial center (the aggregate consideration of the minimum number of parking spaces required for all of the Individual tenant spaces at this commercial center, collectively) complies with the minimum parking requirements as found in Chapter 32 of the Mesa Zoning Ordinance.

For example, for the purposes of calculating the minimum parking demand, assume that the FMSC use will be classified as a 'community center' under Section 11-32-3. This use requires 1 parking space per 75-sqft of net floor area used for public assembly. Because parking requirements for a group commercial center are reviewed as an aggregate of all tenant spaces that occupy that development site, then the Upper Iowa University tenant spaces are to be included in the parking calculation, and shall be considered at a college parking ratio (1 space per 200-sqft Gross Floor Area or GFA). The remainder of the tenant spaces (those tenant spaces not occupied by Upper Iowa or by FMSC) may be considered at the Group Commercial Shell Building ratio of 1 space per 275-sqft GFA.

Additional consideration may be given to a Shared Parking Plan (See Sec 11-32-5 of the Mesa Zoning Ordinance) for determining the minimum parking requirements. A separate application would need to be filed with the Planning Division staff for consideration of a Shared Parking Plan.



Feed My Starving Children

Chanhassen / Coon Rapids (HQ) / Eagan, MN

Aurora / Libertyville / Schaumburg, IL

Tempe, AZ

MobilePack events nationwide

November 19, 2014

Gordon Sheffield  
Zoning Administrator  
City of Mesa  
55 N. Center Drive  
PO Box 1466, Mail Stop 9953  
Mesa, Arizona 85211-1466

Re: Board of Adjustment Zoning Ordinance Interpretation – Feed My Starving Children

Mr. Sheffield:

Feed My Starving Children ("FMSC") is a Christian non-profit organization seeking to lease approximately 25,000 square feet of space for our Regional Office in Arizona. The proposed location for our facility is within the Fiesta Mesa district and more specifically located at 1345 S. Alma School Road ("Property"). The Property is zoned LC – Limited Commercial. The FMSC Regional Office will function primarily as a faith based Community Center and will include a classroom to educate the public on the problem of malnutrition in children throughout the world, an experiential learning center (packing room) where participants will actually pack food pouches and containers, a large retail store (FMSC MarketPlace™), an event staging area to support the on-site experiential learning center as well as to stage mobile packing events that will occur throughout the western United States, and will become home to a support staff that will eventually grow to over 40 employees. The proposed use of the Property as a faith based Community Center with Office, Education, and Retail components is consistent with the defined permitted uses for the Limited Commercial zoning district. The FMSC Regional Office should be allowed by right within the Limited Commercial zoning district.

#### **Background**

Feed My Starving Children's mission as a Christian non-profit organization is to feed God's children hungry in body and spirit. The approach is simple: FMSC uses 90-minute and 2-hour education sessions that include an impactful experiential component to raise awareness about the problem of child malnutrition. It is through education, which includes a profound hands-on experience, that FMSC instills compassion in those who have the means to step up and do something about the 6,200 children each day dying around the world due to malnutrition. The experiential model used is simply allowing children and adult volunteers to hand-pack meals specifically formulated for malnourished children. These meals are then sent to feed malnourished children in more than 50 countries around the world. The education component of the FMSC mission is extended by a retail component called the "FMSC MarketPlace" that primarily includes the selling of products made from artisans from the

countries served by FMSC food. The FMSC MarketPlace is open to the public with regular store hours, another means to educate the public not participating in the experiential portion.

FMSC is truly a community experience: The local community gathering to impact the global community. FMSC volunteers include school groups, churches, and corporate volunteers along with everyday citizens. The only requirement to volunteer with Feed My Starving Children is that the participant be at least 5 years old. Approximately 40% of the total participants in the Feed My Starving Children experience are under the age of 18. Not only are participants educated on the problem of child malnutrition, they are also taught how to efficiently work together in teams to make a huge impact through the packing of the food pouches. It is one of the few education experiences that allows for the participation of virtually everyone, regardless of one's physical or mental capacity, age or economic status. It is not unusual to see the mentally or physically handicapped participate, as well as the very young or very old. Volunteers universally leave with a sense of accomplishment, feeling like they made a difference. As a Community Center, the impact to and for the Valley community cannot be overstated as thousands of residents will gather to learn about the global issue of hunger and to work together to make a positive impact. This facility will also house a retail component called the FMSC MarketPlace™. The FMSC MarketPlace is open to the public six days a week, but is also a part of the experiential learning of volunteers as after a session they are able to touch (and purchase) artisan items made by many of the people whose lives have been changed by FMSC meals.

#### **Compliance with the Limited Commercial Zoning District**

The Limited Commercial zoning district is designed to accommodate general retail, entertainment and service oriented businesses including large format shopping centers. Additional anticipated uses include educational facilities, offices, and various other public and semi-public uses. Specific permitted uses in the Limited Commercial zoning district that align with the proposed FMSC Regional Office uses include: Community Center, General and Large Format Retail, and Business and Professional Offices.

The Mesa Zoning Ordinance defines a Community Center as any noncommercial facility established primarily for the benefit and service of the population of the community in which it is located. Examples include youth centers and senior centers. This classification excludes community facilities operated in conjunction with an approved residential or commercial use that are not generally available to the public. As described above, the FMSC Regional Office is designed primarily to host community based experiential and educational food packing events designed to bring people together while serving others. The proposed site plan includes event areas for food packing as well as more traditional classroom space. FMSC events are a local experience with global impact. Community Centers are a permitted use.

The FMSC Regional Office will also include a traditional office component. The facility will include traditional office space and ultimately house up to 40 FMSC staff members. Business and Professional Offices is a permitted use.

The FMSC MarketPlace, which is a supplemental component of the FMSC Regional Office closely aligns with the Land Use Classification of "Retail Sales, General," selling clothing, toys, handcrafted items and jewelry in a retail setting. General and Large Format Retail is a permitted use.

Light product assembly in the form of packing dry goods (such as rice or soy) in pouches and containers is an integral part of the experiential packing events. The FMSC Regional Office will not include uses such as manufacturing and processing. Additionally, there is no industrial cooking or on-site food preparation.

The Community Center, Office, Education and Retail uses proposed for the FMSC Regional Office are consistent with the defined permitted uses for the Limited Commercial zoning district. The FMSC Regional Office should be allowed by right within the Limited Commercial zoning district.

**Traffic and Parking**

Noting that the number of volunteers, parking requirements, and shipping traffic are relevant factors to understanding FMSC’s impact on the community, FMSC has analyzed these areas and is confident that our numbers complement the zoning and development requirements. We expect that our initial volunteer participation from the community will be around 3,000 volunteers weekly; that number should grow to over 4,000 volunteers during the first two years.

**Trucking:**

We have calculated that initial truck traffic to support our community activities to average only 5 to 7 single trailer trucks per week; FMSC does not anticipate this number growing past 6-9 trucks per week for the foreseeable future.

**Parking:**

FMSC sessions are structured for a maximum participation of 150 volunteers. Our carpooling patterns indicate that a worst-case would be 1 car per 2 volunteers as an average. With up to 10 employee vehicles at a time, we calculate our maximum parking load to be 90 spaces, though carpooling will often bring that number lower. Per the City of Mesa zoning ordinance (11-32-3), FMSC’s required parking based on use is 97 spaces.

Use	FT <sup>2</sup>	Use Grouped	Grouped FT <sup>2</sup>	Grouped %	Parking Use	1 Space per x FT <sup>2</sup>	Spaces Required
Office	2,010	Community Center/ Non-Warehouse	13,785	55%	Office/ Retail	375	10
Retail	1,650				Education	200	36
Interactive Education	7,295				Assembly Space	75	38
Education/Classroom	2,830	Warehouse	11,265	45%	Warehouse	900	13
Mobile Event	2,565						
General Event	5,525						
Shipping/Receiving/Staging	3,175						
	25,050						97

I request your approval of FMSC as a faith based Community Center land use under the LC zoning classification within the City of Mesa, and specifically within the Mesa Fiesta district. I have attached a draft layout of our proposed space for your reference.

Please let me know if you have questions or need any additional information.

Sincerely,

A handwritten signature in black ink that reads "Patricia K. Swanke". The signature is written in a cursive style with a large initial "P".

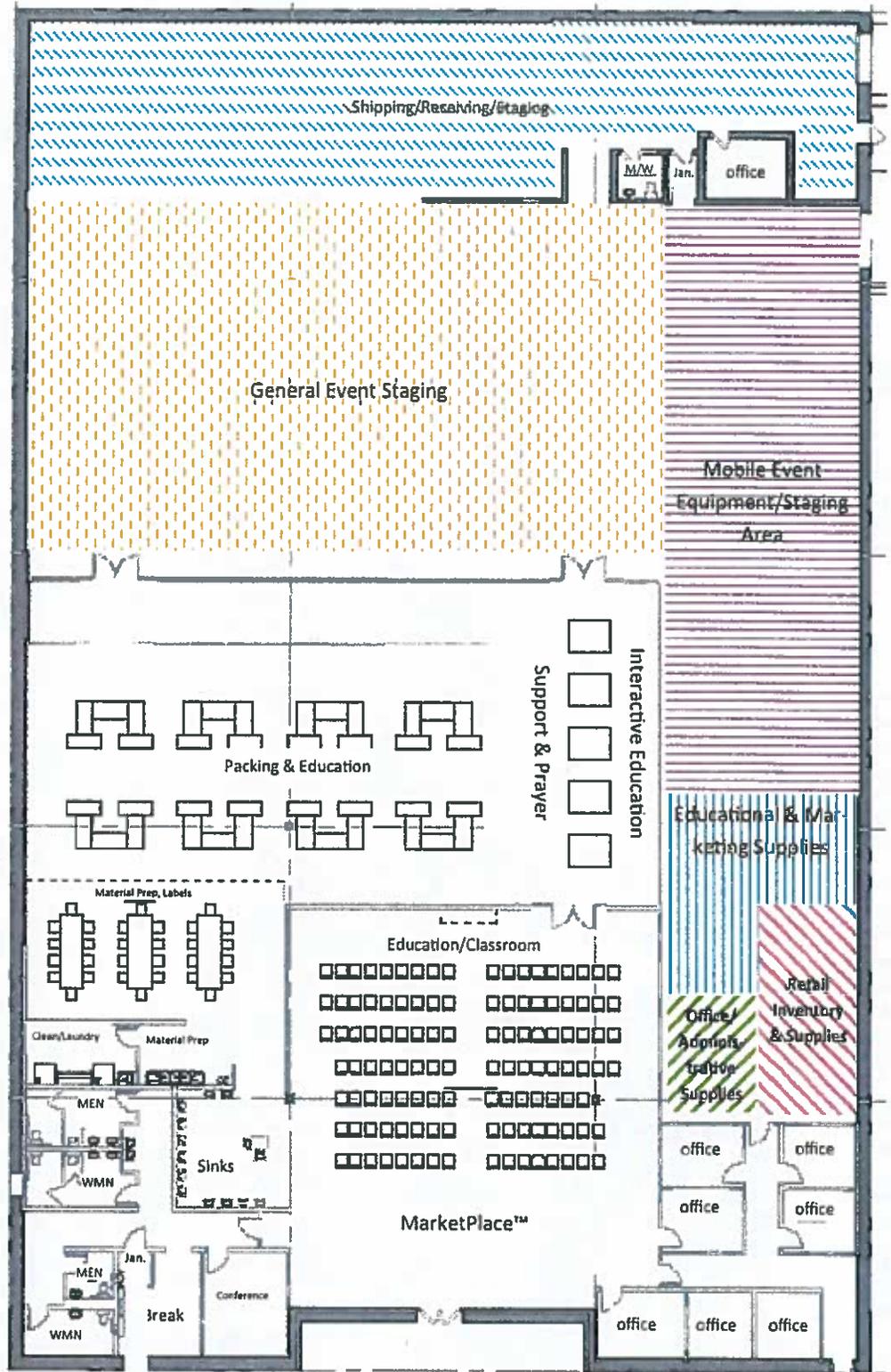
Patricia K. Swanke  
Vice President of Operations

1 ATCH:  
Proposed Space Layout

# Site Plan

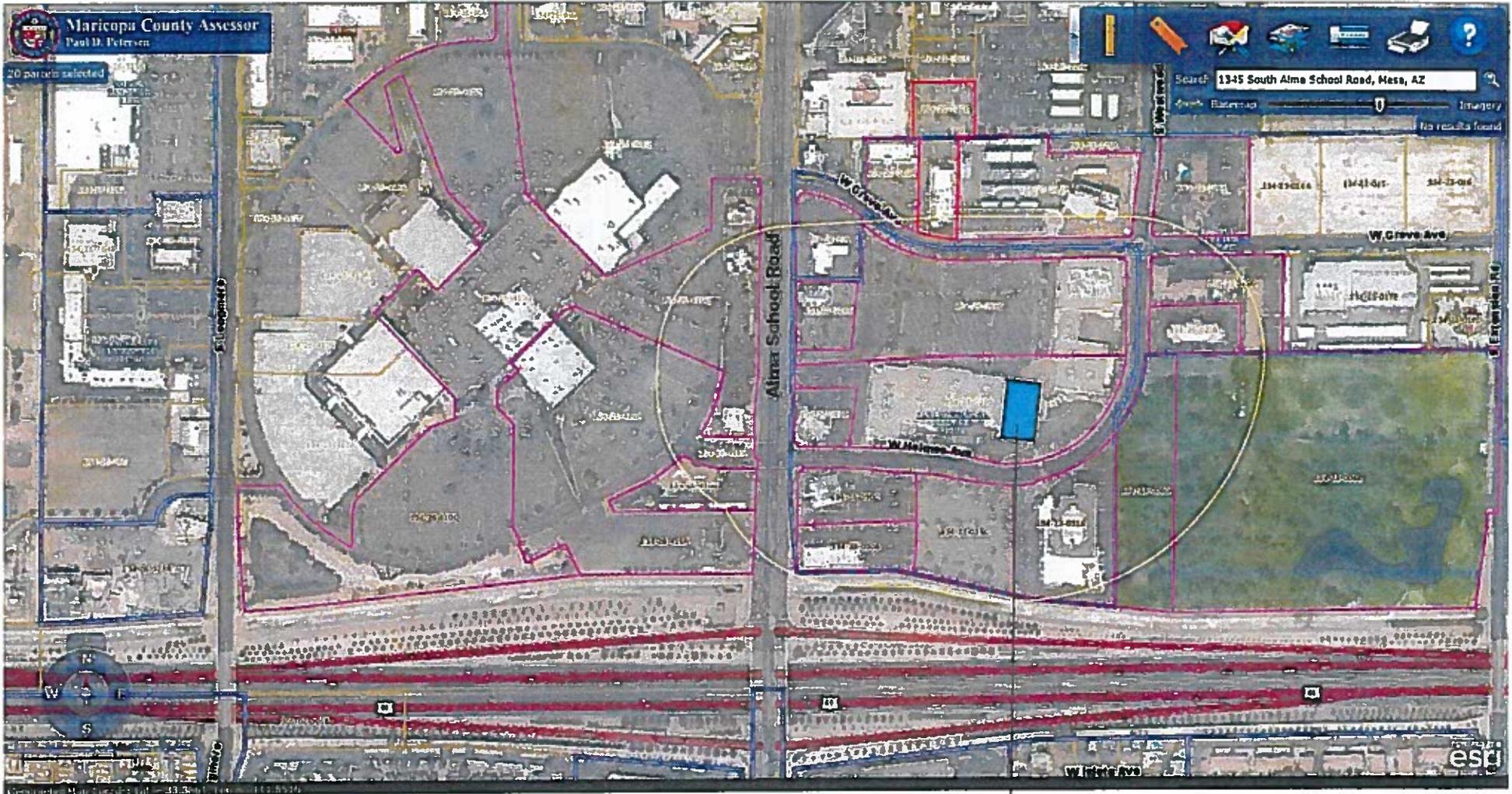
## Space Use:

- Office ~2010 ft<sup>2</sup>
- Retail ~1650 ft<sup>2</sup>
- Education ~10,125 ft<sup>2</sup>
- Mobile Event ~2565 ft<sup>2</sup>
- General Event ~5525 ft<sup>2</sup>
- Shipping/Receiving/Staging ~3175 ft<sup>2</sup>



Use	FT <sup>2</sup>	Use Grouped	Grouped FT <sup>2</sup>	Grouped %	Parking Use	1 Space per x FT <sup>2</sup>	Spaces Required
Office	2,010	Community Center/ Non-Warehouse	13,785	55%	Office/ Retail	375	10
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	25,050						97

# Area Notification Map — Mesa Fiesta



**Proposed:**  
Feed My Starving Children  
1345 S. Alma School Road, Mesa