

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
1/24/2018

ITEM NO. 1 REZONING FROM RSO TO RM15; 4500 OVERLAND DR (SLD)

Z-17-00602: Consider a request to rezone approximately 8.434 acres from RSO (Single Dwelling Residential-Office) District to RM15 (Multi-Dwelling Residential) District, located at 4500 Overland Drive, known as Fox Run Apartments. Submitted by Barber Emmerson LC on behalf of Fox Run KS LLC, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately 8.434 acres, from RSO (Single Dwelling Residential-Office) District to RM15 (Multi-Dwelling Residential) District, based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Reason for Request: *This property was approved by the Lawrence City Commission on October 12, 1999. See site plan SP-08-58-99 (attached). At that time, the property was zoned RO-1B (Residence-Office District). The current version of the City's Land Development Code (the "Code") was approved in 2006. Pursuant to the conversion table of the Code, the subject property was automatically rezoned to RSO District. The RSO District does not permit multi-dwelling residential uses, and thus the property became a legal non-conforming use. This application is made at the suggestion of Planning Staff to cure this technical nonconformity and cause the property to be a legal conforming use.*

KEY POINTS

- The non-conforming status is a result of actions taken by the City and not that of the property owner or applicant.
- This site is developed with 104 apartment units, a clubhouse, pool, surface, and garage parking.
- There are no proposed changes to the site related to this application.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- A-3-95; Annexation Ordinance No. 6677
- Z-5-11-97; 47.61 Acres from A to RO1A (9.84 AC), RS-2 (25.98), RM-1 (11.79)
- Z-1-3-99; 9.84 Acres from A to RO-1B.
- SP-08-58-99; site plan

PLANS AND STUDIES REQUIRED

- *Traffic Study* – Not required for rezoning
- *Downstream Sanitary Sewer Analysis* – Not required for rezoning
- *Drainage Study* – Not required for rezoning
- *Retail Market Study* – Not applicable to residential request

ATTACHMENTS

1. Location Map
2. Existing site plan, SP-8-58-99
3. Northwest Area Proposed Land Uses Map
4. Northwest Area Development Pattern

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None received

Project Summary:

This request is for the rezoning of a developed parcel of land. This property was developed prior to the 2006 adoption of the Land Development Code. Previously, the property was zoned RO-1B (Residence-Office) District. This district permitted multi-dwelling residential development with or without office uses and allowed up to 12.44 dwelling units per acre. The current RSO (Single-Dwelling Residential-Office) District zoning does not reflect the developed multi-dwelling land use. *Multi-Dwelling* uses are not permitted in the RSO District. The property is currently non-conforming.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *This property was approved after the adoption of Horizon 2020, and at all times has been consistent with Horizon 2020, including but not limited to Chapter Five, related to Residential Land Use. The property is consistent with Goal 3 in Chapter Five of Horizon 2020 and associated policies. The property facilitates a transition from low-density residential development to more intensive land uses, consistent with Goal 6 in Chapter Five of Horizon 2020.*

The purpose of this request is to resolve and remove an existing non-conforming use designation for the property located at 4500 Overland Drive. The property is a developed multi-dwelling (apartment) complex. This application does not represent new or infill residential development.

Key features of *Horizon 2020* are listed in Chapter 3 and include:

- *The plan proposes the progression of land uses to help achieve a transition in land use and intensity levels, and to help avoid major or abrupt changes in density and building type.*
- *The Plan encourages the development of neighborhoods in a range of densities to provide a sense of community and to complement and preserve natural features in the area.*

This property was developed with a *Multi-Dwelling* use, as a transition, between the higher intensity uses, south of Overland Drive and lower density residential uses to the north. The property was developed within the context of the Comprehensive Plan principles listed above.

Horizon 2020 describes medium-density residential development as being between 7 and 15 dwelling units per acre. Medium-density residential uses are recommended as "clustered development at selected locations along major roadways, near high-intensity activity areas, and when adjacent to important natural amenities¹." 4500 Overland Drive abuts Folks Road on the east and Overland Drive on the south. Both streets are designated collector streets. Land use to the north includes duplex and detached residential uses. Development to the south includes a multi-unit retirement facility and planned residential development (Bauer Farm). The property included in this request is developed with 104 units. The project density is 12.33 units per acre. The proposed RM15 zoning is consistent with medium-density residential development described in *Horizon 2020*.

Staff Finding – The requested RM15 zoning is consistent with the land use recommendations for medium-density residential development described in *Horizon 2020*. The requested rezoning will provide greater stability for the property by removing the non-conforming designation and will aid in preserving the existing neighborhood pattern by reducing uncertainty created by the current non-conforming designation.

¹ *Horizon 2020, Page 5-4.*

2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

Current Zoning and Land Use:	RSO (Single-Dwelling Residential-Office) District. Existing apartment (<i>Multi-dwelling residential</i>) development. Fox Run Apartments.
Surrounding Zoning and Land Use:	
To the North -	RM12 (Multi-Dwelling Residential) District; existing duplex development.
To the East –	PD-[Briarwood PRD]; existing planned residential development including <i>Detached, and Multiple Dwelling Residential</i> uses on the east side of Folks Drive.
To the South –	PD-[Bauer Farm PRD]; existing <i>Extended Care, General</i> independent senior living and vacant land located on the south side of Overland Drive.
To the West -	GPI (General Public and Institutional) District; existing high school campus – Free State High School.

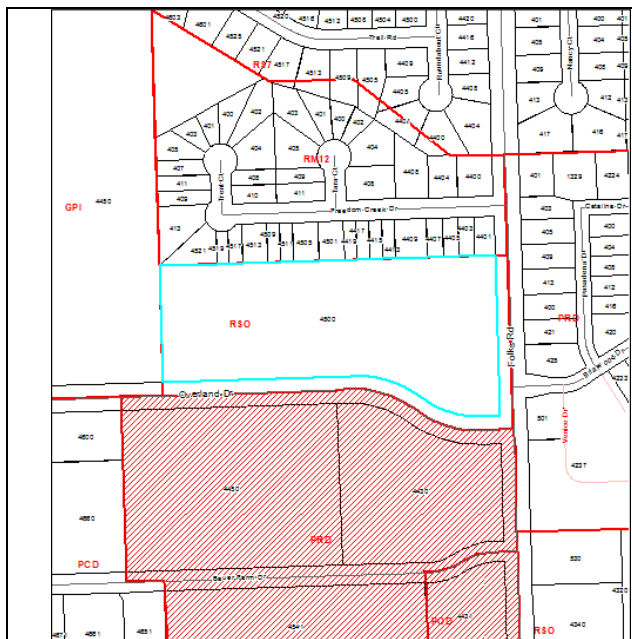


Figure 1: Surrounding Zoning

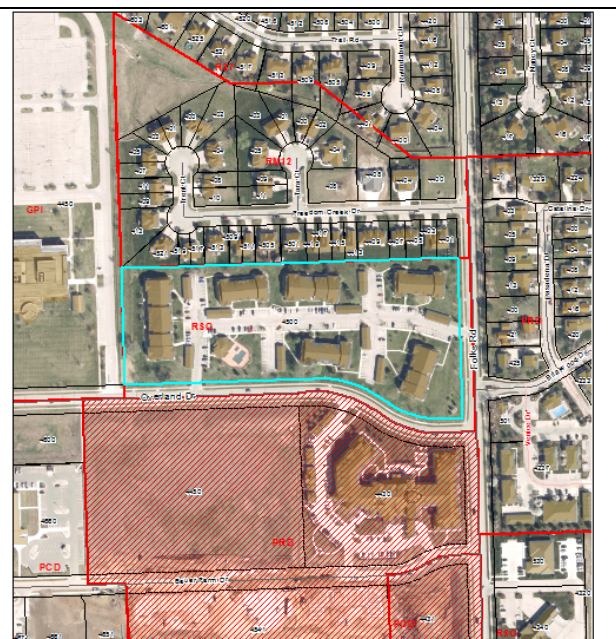


Figure 2: Surrounding Land Use

Staff Finding – The property is surrounded by developed residential uses to the north, east, and southeast. Public property, USD 497 is located to the west and developing residential land is located to the south (Bauer Farm PRD).

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response: *This property is adjacent to an RM12 District (duplex structures) to the north, a planned residential development consisting of single-dwelling and multi-dwelling structures to the east, a planned residential development consisting of multi-dwelling senior living structures to the south, and a high school and indoor aquatic center to the west.*

This property is part of the Overland Addition Final Plat. This subdivision and development are not part of a designated neighborhood. Figure 3 shows the nearby, designated neighborhoods. The area is developed with a range of residential uses and densities. The Monterey and Briarwood Neighborhoods are located on the east side of Folks Road. The Quail Run neighborhood is located south of W. 6th Street and the West Lawrence Neighborhood is located west of Wakarusa Drive. Free State High School campus serves the surrounding neighborhoods and is a significant feature in the area.

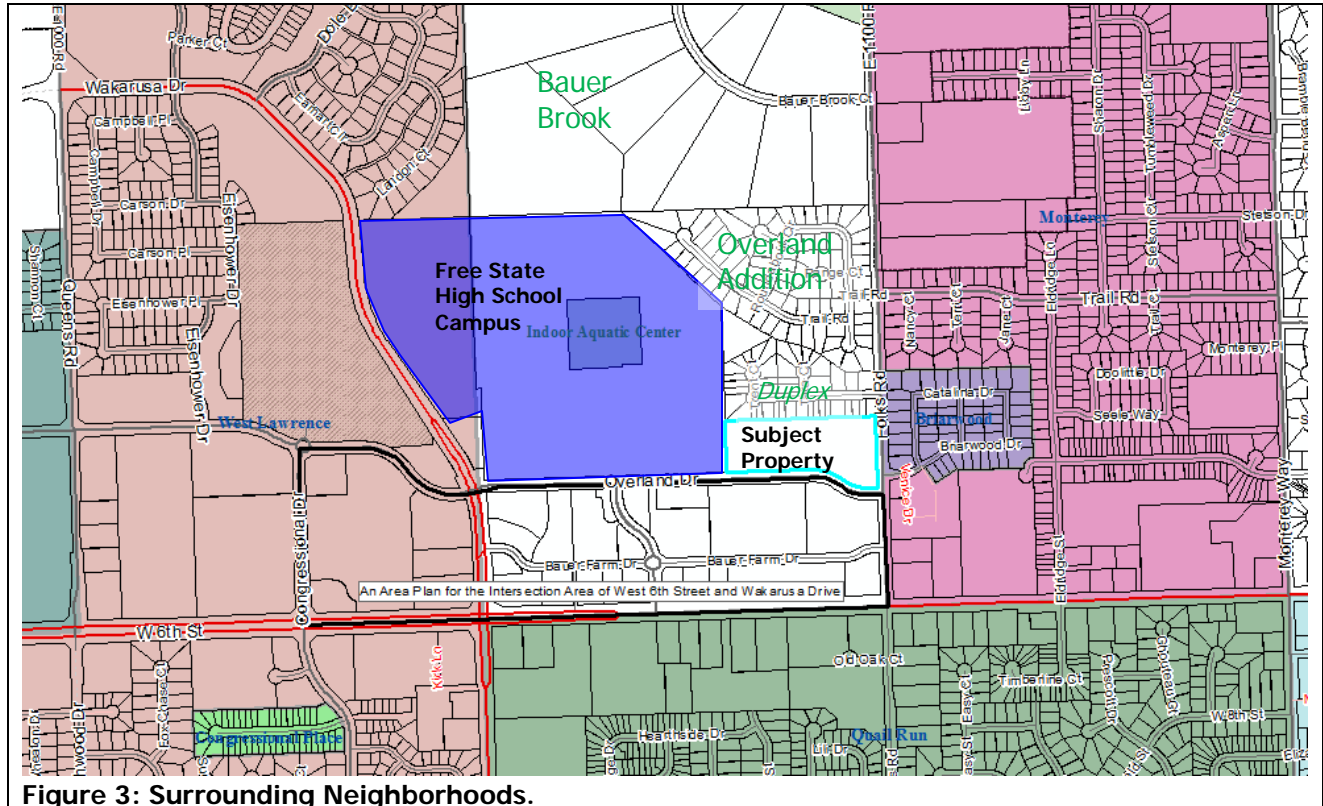


Figure 3: Surrounding Neighborhoods.

The developments located north of Overland Drive and along the west side of Folks Road are generally self-contained subdivisions including:

- *Fox Run Apartments (subject property)*
- *Overland Addition (Duplex)*
- *Overland Addition/Bauer Brook (Detached Dwellings)*

Staff Finding – The surrounding neighborhood is characterized by residential land uses north of Overland Drive. The area provides a range of house types within the larger neighborhood context and is anchored by the high school campus to the west.

4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

The property is located within any designated neighborhood, area, or sector plan boundary. With the exception of a few selected lots, the area is developed.

Staff Finding – There are no applicable applicable area or neighborhood plans for this area.

5. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS

Applicant's Response: *The property has already been constructed as a multi-dwelling apartment complex, and the property remains suitable for that use. Its use is and always has been compatible with adjacent uses.*

The current zoning is not suitable and does not reflect the existing land use. The property is developed with buildings for *multi-dwelling residential* use with a density of 12.33 dwelling units per acre. The development pattern is a medium-density residential use. The original RO-1B district allowed a maximum of 12.44 dwelling units per acre.

The RO-1B district automatically converted to RSO upon adoption of the Land Development Code. The RSO district does not permit multi-dwelling structures. This conversion made the property non-conforming. Approval of the requested RM15 District would result in a district that accurately reflects the existing land use with an appropriate maximum density.

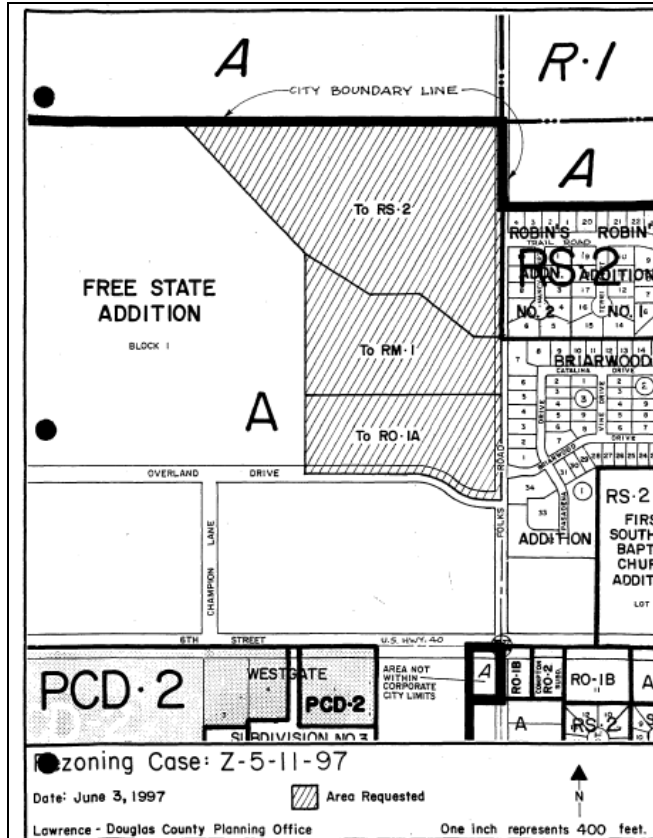
Staff Finding – The current zoning is no longer suitable since the adoption of the Land Development Code in 2006.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

This property is developed with a multi-dwelling residential use that includes 104 units, garages for 59 parking spaces in addition to surface parking for the development. The property is currently zoned RSO (Single-Dwelling Residential-Office) District. The RSO district does not allow multi-dwelling structures. The land use is non-conforming. The property has been zoned RSO since 2006. Prior to 2006 the property was zoned RO-1B (Residence – Office) District. Upon adoption of the Land Development Code in 2006, the RO-1B (Residence – Office) District converted to RSO (Single-Dwelling Residential-Office) District.

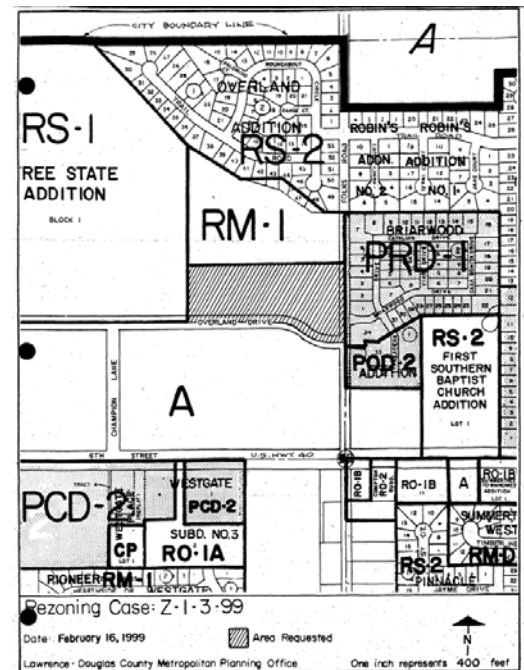
The property was part of a larger rezoning application (Z-5-11-97) that included all of the area currently known as the Overland Addition Final Plat. The 1997 application included a request for RS-2, RM-1, and RO-1A. The RS-2 and RM-1 Districts were approved. Minutes from the Planning Commission meeting discussion reflect concerns about the need to provide mixed use and to limit building height. The resulting recommendation was for the south 9 acres to be rezoned to POD-2 (Planned Office District). At the time of the zoning consideration, neither a Preliminary Plat nor a Preliminary Development Plan had been submitted. Zoning was conditioned upon completing a development plan for the POD-2 District. The Preliminary Plat notes proposed Lot 1, Block 4 as POD-2 (Planned Office District). The zoning ordinance for the POD District was not published. The property remained technically zoned A (Agricultural). The POD-2 reference shown on the Preliminary Plat reflects the approval but the zoning was never "effective" since an ordinance had never been published. Figure 4 shows the land included in the 1997 request and the three related zoning district requests.

A later rezoning application, Z-1-3-99, was submitted in 1999. See figure 5. The staff reports states "since rezoning the property to RO-1B is consistent with the rezoning options presented by Staff during the 1997 rezoning hearing, Staff is in support of the rezoning and mixed use development on this property."



Recommendation was for POD-2 subject to approval of a Preliminary Plat for the subject proerty and or a Preliminary Development Plan. (PC 6/25/97).

Preliminary Plat, Overland Addition, was approved on 9/24/97. A Preliminary Development Plan was not submitted for the POD-2 portion. The POD-2 zoning was never published by ordinance and never became effective.



The property was zoned RO-1B from 1999 until 2006 when the City adopted the Land Development Code. Prior to 1999 the property had been zoned A (Agricultural) District.

Staff Finding – The property is developed with multi-dwelling residential structures and garages and related including surface parking. The current RSO zoning has been in place since 2006. Development of the site occurred in 1999.

7. EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's Response: *The rezoning of the property to RM15 will have no detrimental affect on nearby properties.*

Approval of the requested zoning will not alter the existing development form or intensity. There are no impacts on surrounding property that will result from this change. Approval of the request will remove the non-conforming status of this property.

There is no current development proposal for this property. Should any additional dwelling units be proposed in the future, a site plan demonstrating compliance with current development standards, including additional parking spaces will be required to be submitted for review and approval.

Staff Finding – There are no proposed changes to the site related to this request. There are no detrimental affects anticipated that will result from approval of this requested rezoning.

8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION

Applicant's Response: *In this situation, where the current use of the property has already been established and conforms with the use requirements of the RM15 zoning district, and where the existing non-conformity is the result of a technicality following the adoption of the 2006 Code, there is no detriment to public health, safety or welfare if the application is approved.*

Evaluation of this criterion includes weighing the benefits to the public versus the benefit of the owners of the subject property. Benefits are measured based on anticipated impacts of the rezoning request on the public health, safety, and welfare.

The property, as currently zoned, does not comply with Article 4 of the Land Development Code with respect to land use. In 2013 Staff notified the property owner that the property was made a "legal, non-conforming use" in 2006, with the adoption of the Land Development Code (ZC-13-00430). Staff recommended that the owner consider a request to rezone the property.

The Land Development Code accommodates non-conforming uses, structures, and lots in Article 15. This section of the City Code addresses how uses may continue in their current form and under what circumstances such a use can expand or be discontinued. This property could continue to be used and operated as a multi-dwelling use per section 20-1502. Regular maintenance is permitted, but major changes to the site would be restricted. By rezoning the property to a compatible and conforming district, the assurances of use and development rights are clarified both for the property owner and for the community.

Future applications and permits are simplified, in administration, with the dissolution of the non-conforming status.

Staff Finding – Approval of the request will align the zoning with the developed land use. This change will simplify the administration of future development related applications for this property. This action provides a more efficient review of the property in the future, if needed and provides assurances to the property owner that the use may continue to be used.

9. PROFESSIONAL STAFF RECOMMENDATION

The proposed request is intended to align the zoning and land use for the property located at 4500 Overland Drive. The property is developed with 2-story apartment buildings (*Multi-Dwelling Residential* use). The current development intensity is slightly more than 12 dwelling units per acre. Approval of zoning to RM12 would result in a continuation of a non-conforming element because the total number of units would exceed the maximum density. Approval of the RM15 district allows the existing development pattern to be completely encapsulated in the maximum density for the district without a non-conforming component.

	RO-1B	RM15	Development Conformance
Minimum Lot Area (SF)	7,000/3,500 per unit	6,000/2,904 per unit	
Maximum Density	12.44	15	12.38 (104 units)
Building Height	35'	45'	2 story
Outdoor Area per Unit	na	50 SF	5,200 SF required per new code
Maximum Impervious Cover	na	75% of Lot	42%
Front Building Setback	25'	25'	Overland Drive – excess of 25'
Side Building Setback	5'	5'	Excess of 5' (existing 65' of easement)
Exterior Side Building setback	25/10'	25/10'	Folks Road – excess of 25'
Rear Building Setback	30'	25'	30'

Staff recommends approval of the RM15 zoning as requested by the applicant.

Site Plan Review: An approved site plan does conform to the density and dimensional standards of the Land Development Code with regard to land use, building setback, density, and height.

The development provides excess off-street parking based on the parking standards at the time of development. The 1966 Code required 172 parking spaces. The site plans shows 244 parking spaces provided in surface spaces and garage spaces. The current development of 104 units and 200 bedrooms requires 211 off-street parking spaces per the Land Development Code off-street parking design standards. The site plan exceeds the minimum required off-street parking.

UNIT MIX	NUMBER	PARKING	BICYCLE
1 BEDROOMS/1 BATH	24	2-A x 1.5 = 36	x .15 = 3.6
2 BEDROOMS/1 BATH	24	2-B x 1.5 = 36	x .15 = 3.6
2 BEDROOMS/2 BATH	40	2-B x 1.5 = 60	x .15 = 6.0
3 BEDROOMS/2 BATH	16	2-C x 2.5 = 40	x .25 = 4.0
	<u>104</u>	<u>172</u>	<u>17.2</u>
		Required	Required

Figure 6: Required Parking per approved Site Plan

CONCLUSION

The owner has made this request to resolve the existing non-conforming use status of the developed property located at 4500 Overland Drive. The zoning at the time of development permitted multi-dwelling residential development. Upon adoption of the Land Development Code in 2006, the property became non-conforming. The proposed request is consistent with medium-density residential development recommended in the Comprehensive Plan and the Northwest Area Plan. The zoning is also consistent with the existing development pattern of the area. Staff recommends approval of the request to rezone 4500 Overland Drive to RM15.