

Planning Staff Analysis

Z25-0011a/Expanding Opportunity In Southern Downtown City Council Districts #1 & 2

REQUEST:

Request regarding a City-initiated zoning change from Public Facilities (PF) District to Mixed-Use Downtown (MD) District on approximately 1.08 acres, and from Mixed-Use Neighborhood (MN) District to Mixed-Use Downtown on approximately 42.62 acres.

STAFF RECOMMENDATION:

Staff recommends approval of the request as it complies with the criteria in Section 2.4.5.E of the Denton Development Code (DDC) for approval of all applications, and Section 2.7.2.D of the DDC for approval of a zoning change.

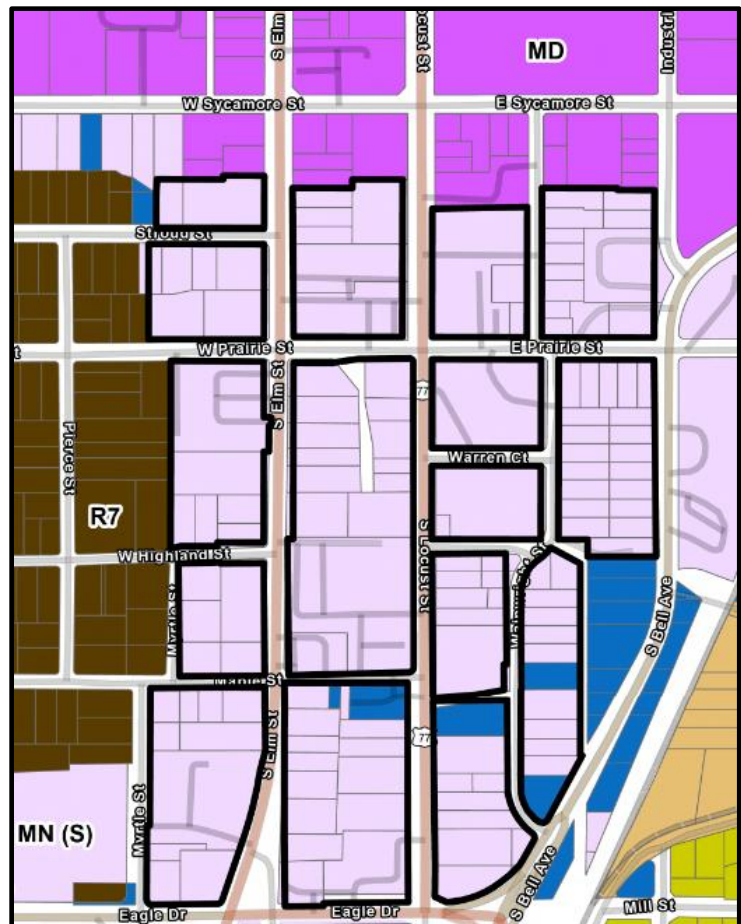
SITE DATA:

The overall approximately 43.7-acre subject area includes 135 lots. See Exhibit 7 for the exact breakdown of lots by current use type. It is developed primarily with commercial and multifamily uses, although there are a significant number of vacant lots scattered throughout the area, as well as clusters of single-family, duplex, and triplex residential on the east and west edges of the subject area. While much of the area was removed from the floodplain by the PEC-4 city infrastructure project, some properties in the northwest and southeast of the subject area are still impacted by floodplain.

The subject area has a level of connectivity consistent with a downtown area, as it is crisscrossed by numerous neighborhood streets, as well as being bisected and bounded by a number of primary and secondary arterials, including:

- South Elm Street and South Locust Street are a couplet of one-way, three-lane secondary arterials which bisect the subject area from north to south.
- Bell Avenue is a four-lane secondary arterial that borders much of the eastern boundary of the subject area.
- Eagle Drive is a four-lane secondary arterial that runs along the southern boundary of the area.

Surrounding development is a mix of commercial and multifamily to the north, primarily single-family residential to the west, commercial uses across Eagle Drive to the south, and industrial uses and the railroad line across Bell Avenue to the east. The surrounding zoning pattern is primarily Mixed-Use Downtown to the north, Mixed-Use Neighborhood (MN) and Public Facilities (PF) to the east, MN to the south across Eagle Drive, and a mix of Residential 7 (R7) and MN to the west, as shown in the inset map above.



For additional analysis that divides the large subject area into smaller Analysis Areas to enable a more focused discussion of the unique characteristics of certain parts of the larger subject area, please see Exhibit 7.

SURROUNDING ZONING AND USES:

Northwest: Zoning: Mixed-Use Neighborhood (MN) and Public Facilities (PF) Districts Use: Single-family detached residential, duplex, retail, and daycare uses.	North: Zoning: Mixed-Use Downtown (MD) District Use: Commercial, multifamily dwelling, single- family residential, and vacant lot uses.	Northeast: Zoning: MD and MN Districts Use: Self-Storage and Manufacturing uses.
West: Zoning: Residential 7 (R7) District Use: Single-family detached residential	SUBJECT PROPERTY	East: Zoning: MN and PF Districts Use: Manufacturing and public infrastructure uses.
Southwest: Zoning: MN and R7 Districts Use: Office, bank, financial institution, and Single-family residential uses	South: Zoning: MN District Use: Retail and Tattoo Shop uses	Southeast: Zoning: MN and PF Districts Use: Manufacturing, vacant lot, and public infrastructure uses.

CONSIDERATIONS:

- A. Section 2.4.5.E of the DDC provides approval criteria applicable to all applications. The discussion below applies these criteria to the subject area as a whole. For additional discussion, see also Exhibit 7, which divides the overall subject area into 3 smaller Analysis Areas and looks at how each separate area individually meets certain key criteria for approval.

1. General Criteria

- a. *Unless otherwise specified in this DDC, City review and decision-making bodies must review all development applications submitted pursuant to this subchapter for compliance with the general review criteria stated below.*

The review criteria were applied as required.

- b. *The application may also be subject to additional review criteria specific to the type of application, as set forth in sections 2.5 through 2.9.*

Because this is a City-initiated action, Section 2.7.2.D.2 of the DDC applies to this rezoning request, and the standard rezoning approval criteria in Section 2.7.2D.1 do not apply. However, in order to be consistent with other rezoning requests, an analysis of this request per those standard criteria can be found below in Consideration B.

- c. *If there is a conflict between the general review criteria in this section and the specific review criteria in sections 2.5 through 2.9, the applicable review criteria in sections 2.5 through 2.9 controls.*

There are no conflicts between the general criteria and the criteria which specifically apply to zoning requests.

2. *Prior Approvals*

The proposed rezoning is consistent with both the approved Denton 2040 Comprehensive Plan and with the approved Design Downtown Denton (DDD) plan, as will be discussed further below.

There are two previously approved Specific Use Permits (SUPs) within this area, which this rezoning would affect. The first SUP is for a Bar use at 400 S Elm Street; the proposed rezoning to MD will be consistent with this SUP approval because the Bar use is permitted by right in the MD zoning district. The second SUP is for a Minor Automotive Repair Use at 534 S Elm Street. While the rezoning to MD will make that use non-conforming, this change will still allow the Minor Automotive Repair use to continue operating in line with the terms of the SUP as a legal nonconforming use, as long as it complies with the requirements of DDC 1.5 *Nonconformities*.

So, overall, the proposed rezoning achieves consistency with the approved long-range plans for the Southern Downtown area that set a vision of a walkable area with more pedestrian-focused uses which this rezoning should make easier to achieve, while also allowing specifically approved uses to continue or even expand, depending on how consistent they are with the approved long-range vision for the area.

3. *Consistent with the Comprehensive Plan and Other Applicable Plans*

The decision-making authority:

a. Shall weigh competing goals, policies, and strategies.

The proposed rezoning is consistent with both the Future Land Use designation in Denton Comprehensive Plan 2040 and with the recommendations for this area in the Design Downtown Denton plan.

b. May approve an application that furthers the overall goals of the Comprehensive Plan even if the development does not match the future land use designation in the Comprehensive Plan.

Future Land Use

Per the Denton 2040 Comprehensive Plan Future Land Use Map (FLUM), the subject area is designated as Downtown Denton. This land use designation allows for “moderate- and high-density residential, commercial, office, entertainment, and other uses, except industrial, tailored to encourage a greater level of activity in Downtown, while protecting the scale and strengthening the character of Downtown and Denton’s historic core.”

The proposed zoning of Mixed-Use Downtown aligns exactly with the Future Land Use Map (FLUM) designation of Downtown Denton, as the description of MD in the DDC is essentially exactly the same as the description of the FLUM designation in the Denton 2040 Comprehensive Plan. MD is generally the most appropriate zoning district for properties in the Downtown Denton FLUM designation. The proposed expansion of the MD district would bring the zoning of the subject area into line with its Future Land Use Map designation. The proposed rezoning is thus very consistent with the FLUM and thus with the Denton 2040 Comprehensive Plan.

This rezoning would therefore help to accomplish Denton 2040 Comprehensive Plan sub-goal 2.2.3 “Revise the Zoning Map for consistency with the Preferred Growth Concept Map and the Future Land Use Map.”

Given the clear fit between the Downtown Denton FLUM designation and MD zoning, then, it could be difficult to understand why the subject area is not already zoned MD, particularly since, prior to 2019, most of the subject area was zoned Downtown Commercial – General (DC-G), which was essentially the 2002 Development Code’s version of the MD zoning. A full discussion of this history is provided below in criterion A.11.g.

Development of Downtown:

The comprehensive plan spends a considerable amount of time discussing Downtown Denton, which it describes as “principal among the city’s centers,” and the comprehensive plan’s Land Use section includes goals and actions related to encouraging more investment and more mixed-use development in Downtown, including:

- **GOAL LU-1:** Achieve sound, sustainable growth in compact development patterns with balanced land uses planned in coordination with transportation and infrastructure systems.
- **Goal LU-2:** Achieve re-investment, revitalization, and redevelopment of key growth Centers and Corridors.
- **Key Action 2.6:** Promote mixed-use development, diversification, and intensification of Downtown Denton.

The proposed rezoning helps to facilitate achieving all of the above goals and actions. Expanding MD into the southern part of the Downtown Center area would allow denser mixed-use development, with no open space requirements for multifamily and less required parking for commercial uses, in an urbanized area where adequate transportation and infrastructure are already provided. Expanding MD zoning makes compact infill development more viable – these infill areas become easier to develop when a larger portion of a lot’s area can be developed with a building. Expanding MD contributes to the revitalization and diversification of the commercial base in Downtown because it allows more typical Downtown uses by right, instead of requiring SUPs, and, again does not require them to meet minimum parking.

Community Vision Statement

Sound Growth: Our Form and Function

Sound Growth is one of the four Strategic Directions within the Denton 2040 Comprehensive Plan and can be found in the Community Vision Statement on page 1-13:

- A vibrant Downtown Denton, energized with new housing, shopping, arts, and entertainment, supporting day and nighttime activity and a true urban lifestyle – Denton style.
- Managed, balanced, and sustainable growth in high-quality, livable urban, suburban, and rural places which offer diverse choices among neighborhood settings while respecting private property rights.
- A compact development pattern which includes expanded areas of mixed use, a broad array of housing and retail choices responding to changing demographics and market preferences, and re-investment and infill in underutilized areas of the city.

Rezoning the subject area to Mixed-Use Downtown District is consistent with the Sound Growth principles outlined within the Vision Statement, particularly the specific vision for Downtown Denton, as the greater development flexibility provided by MD can encourage new investment and reinvestment in the subject area. This rezoning has the potential to facilitate both the development of a more vibrant Downtown Denton – particularly in Southern Downtown – by making it easier to bring in new retail choices, restaurants, and entertainment and also the introduction of a greater variety of housing options, including particularly townhomes, in an established area of the City.

Housing

Denton 2040 Comprehensive Plan acknowledges that, “With housing demand expected to increase over the next five years, providing diverse housing options in a variety of densities, styles, and price-points is critical to increasing the affordability of housing in Denton (7-6).” The proposed development is consistent with the housing goals within the City, including the following:

- **Denton 2040 Comprehensive Plan - Goal HN-1:** Develop and maintain a housing stock that meets the needs of all residents with a diverse array of choices in type, cost, and location.
- **Denton 2040 Comprehensive Plan – Key Action 7.1:** Promote development of higher density housing as part of mixed-use development in Denton’s urban core
- **Denton 2040 Comprehensive Plan – Key Action 7.1.3:** Create regulatory incentives to expand housing in and adjacent to downtown through adaptive re-use, utilization of upper stories and infill development/redevelopment.
- **Design Downtown Denton Plan – Recommendation 3B, Action 1:** Set a goal of encouraging an additional 1,500 units constructed Downtown within the next ten years.

The proposed rezoning to MD, by allowing property owners to use more of their lots and to build taller (as long as they comply with height buffers around residentially-zoned properties), and by removing open space requirements incompatible with downtown development, should enable and essentially provide incentives for more downtown residential housing, including as part of mixed-use developments, helping to implement the community’s vision for Downtown’s future as captured in the Denton 2040 Plan and the Design Downtown Denton plan.

Design Downtown Denton Plan

In response to community feedback requesting more focus on the southern part of downtown and expressing a desire for more businesses and less vacant buildings, the DDD Plan provided a number of recommendations for the area, including:

- **Recommendation 3A:** Develop Southern Downtown
- **Recommendation 3B, Action 1** (see Housing discussion above)
- **Recommendation 3D, Action 3.2:** Examine rezoning the MN parcels south of the square to MD to stimulate development south of Downtown.

The proposed expansion of MD zoning helps to implement all of these recommendations, creating more flexibility to develop the mix of uses, including additional housing, that will be essential to creating a future thriving Southern Downtown in the subject area.

Preferred Land Preservation Plan

The Preferred Land Preservation Map does not identify any areas for preservation in the subject area.

Overall

As discussed above, the DDD Plan and the Denton 2040 Comprehensive Plan include recommendations, goals, and key actions which discuss encouraging denser and more walkable mixed-use development Downtown. The area proposed for rezoning is designated “Downtown” on the Future Land Use Map. Rezoning areas zoned MN to MD will allow these properties to develop a higher percentage of their lot area, with a range of uses more appropriate to Downtown than those permitted in MN. Most of this area recently underwent a significant change when it was removed from the floodplain and is therefore much more able and likely to redevelop than at any time in the recent past. The MD zoning is more likely than MN to encourage and guide redevelopment in this area that will “further the overall goals” of the comprehensive plan and Design Downtown Denton area plan.

4. *Compliance with this DDC*

- a. *The proposed development shall comply with all applicable standards in this DDC, unless the standard is to be lawfully modified.*

This request is for a rezoning of the subject area. Any future modifications or redevelopment of properties within this area must comply with applicable standards in the DDC, including, but not limited to, minimum lot size and dimensions, building coverage, parking, tree preservation, and landscaping.

- b. *Compliance with these standards is applied at the level of detail required for the subject submittal.*

This request is for a rezoning of the subject area. Any subsequent redevelopment must comply with applicable standards in the DDC, including, but not limited to, building coverage, access, parking, tree preservation, and landscaping.

5. *Compliance with Other Applicable Regulations*

This proposed rezoning complies with all other applicable regulations.

6. *Consistent with Interlocal and Development Agreements*

There are no interlocal or development agreements for the subject area.

7. *Minimizes Adverse Environmental Impacts*

Any future redevelopment of properties within the subject area would be required to comply with the DDC regulations related to drainage and tree preservation.

8. *Minimizes Adverse Impacts on Surrounding Property*

For much of the subject area, the potential for any negative impact is limited because the properties being rezoned are separated from any surrounding properties by wide secondary arterials. Along the northern boundary, the subject area entirely borders properties already zoned MD, so no adverse impacts would be expected. However, where the subject area does adjoin residentially-zoned neighborhoods, the DDC already protects existing residential development with building height transition buffer and compatibility buffer standards between uses.

The building height transition buffer standards mean that buildings located within 50 feet of an abutting lot that is zoned residential cannot be taller than the maximum height in that abutting residential district, which is 40 feet for residentially zoned properties. Additionally, buildings located on an abutting lot, but where the buildings are located more than 50 feet but less than 100 feet away from the residentially zoned properties, are limited to a maximum height of 55 feet. The use buffer standards require that new commercial and multifamily uses provide a buffer comprised of a mixture of landscaping and/or fencing between their development and abutting single-family residential uses. These standards all help to mitigate potential adverse impacts of the level of development which the new MD zoning district will permit.

In addition, prior to 2019, most of the properties proposed for rezoning to MD were zoned DC-G, which was the equivalent of MD at the time. So this zoning “change” is in many ways a return to a previous zoning that existed in the subject area, and adjacent to the surrounding properties, for many years. For this reason, as well, significant adverse impacts on surrounding property are not anticipated because to staff’s knowledge no land use compatibility or issues of development scale occurred under the prior zoning.

A final category of possible negative impacts that staff considered is for the properties being rezoned. First, there could have been a negative impact on single-family residential dwellings, because single-family residential dwelling is not a permitted use in the MD zoning district. However, to avoid this, the draft rezoning ordinance (see Exhibit 13) is written to keep all existing single-family residential dwellings in the subject area legal and conforming. Second, Minor Automotive Repair uses in the subject area could be impacted because this use is also not permitted in MD. However, the DDC’s protections for non-conforming uses in Section 1.5 help to mitigate potential negative impacts by providing that, if the rezoning is approved, these uses can continue to operate, even if they’re sold to new owners, as long as they are in compliance with the standards of DDC Section 1.5. If and when those non-conforming uses cease operation, then the proposed MD zoning would allow for a variety of permitted uses to be redeveloped on those properties under standards that allow for the developable lot area to be maximized.

9. *Minimizes Adverse Fiscal Impacts*

Due to the large number of lots and the number of different uses which could be developed on the lots proposed for rezoning to MD, it would not be possible to use the Fiscal Impact Analysis tool to assess this rezoning.

However, this rezoning would, in general, make properties easier to develop, due to the greater lot usage permitted in MD, as well as the elimination of minimum parking requirements for most uses. Therefore, it is anticipated that this rezoning would at least not have a negative fiscal impact, and that it would potentially have a positive fiscal impact, making it easier to develop currently vacant lots and to redevelop currently under-used lots, thereby increasing the revenue coming in from those lots.

10. *Compliance with Utility, Service, and Improvement Standards*

This proposed rezoning will not affect utilities, services, or improvements. If the lots are redeveloped in the future, the project(s) will be reviewed to ensure compliance with all applicable standards.

11. *Provides Adequate Road Systems*

The subject area is currently served by six neighborhood streets and four secondary arterials (listed above) and is anticipated to have more than adequate capacity for any increased volume of traffic generated by new development and redevelopment which this rezoning may facilitate. In addition, those new developments and redevelopments which would generate significant additional traffic will be required by Denton Development Code standards to provide street and sidewalk infrastructure improvements commensurate with their anticipated additional impact on that infrastructure. Also, while much of this area does have sidewalks in place, areas where sidewalks are lacking or in poor repair will potentially benefit from this rezoning to the extent that it makes new development and redevelopment projects – which often are required by the DDC to provide sidewalk improvements – more viable and more likely.

12. *Provides Adequate Public Services and Facilities*

Public utilities exist within and serve the area today. Any new development or redevelopment that occurs in the area will be required to comply with all City of Denton requirements for impact fees and infrastructure improvements. Therefore, the proposed rezoning is not anticipated to negatively impact public services and facilities.

In addition, while it is proposed to rezone multiple city-owned properties, which currently contain city drainage infrastructure, from Public Facilities (PF) to Mixed-Use Downtown (MD), the MD zoning permits the Community Service use in which that infrastructure would be included and will not hinder the continued use of those properties for drainage purposes.

13. *Rational Phasing Plan*

This proposed rezoning does not have a phasing plan.

- B. Section 2.7.2.D.1 of the DDC states that the standard “approval criteria shall not apply to legislative rezonings by the City Council.” However, for consistency with the typical owner/applicant-initiated zoning cases, this city-initiated request has also been reviewed against the approval criteria for a privately-initiated rezoning request, which may be approved based on the following conditions:

1. *The proposed rezoning is consistent with the Comprehensive Plan.*

As discussed in A.3.b above, the proposed zoning of MD District is consistent with the Future Land Use map in the Denton 2040 Comprehensive Plan.

2. *The proposed rezoning is consistent with relevant Small Area Plan(s).*

As discussed in A.3.b above, the proposed zoning of MD District is consistent with the recommendations of the recently-adopted Design Downtown Denton plan.

3. *The proposed rezoning is consistent with the purpose statement of the proposed zoning district, as provided in Subchapter 3, Zoning Districts.*

Per Section 3.3.2A, “The MD district is provided to allow for a variety of uses contributing to the economic viability of Downtown Denton. This district allows for moderate- and high-density residential, commercial, office, entertainment, and other uses tailored to encourage a greater level of activity while protecting the scale and strengthening the character of Downtown and Denton’s historic core. This district contributes to a vibrant environment for pedestrians, bicyclists, and other modes of travel.”

The proposed MD District in the subject area, just a few blocks south of the Square, is consistent with the purpose statement, since the subject area is intended to be part of Downtown, as indicated by its “Downtown Denton” FLUM designation, and the MD zoning district would provide greater development flexibility to facilitate the introduction of a variety of new uses capable of contributing to the economic viability of this part of Downtown – and to Downtown Denton as a whole.

4. *There have been or will be significant changes in the area to warrant a zoning change.*

The overall subject area has experienced a significant recent change, in that a majority of the lots had the floodplain partly or fully removed from their property by the City of Denton PEC-4 capital improvement project. This change has made it possible for these lots to be developed or redeveloped by their owners for the first time in decades. The zoning change to Mixed-Use Downtown zoning is therefore warranted to facilitate and encourage the Downtown-style development, reuse, and redevelopment on these lots that would further the vision of the Design Downtown Denton plan for Southern Downtown, and that is now possible thanks to the floodplain removal.

5. *The intensity of development in the new zoning district is not expected to create significantly adverse impacts to surrounding properties or the neighborhood.*

While it is impossible to know exactly the type and intensity of development which will follow the proposed rezoning, the change to MD zoning would allow for taller and denser development than is permitted in the current MN zoning. However, as discussed in more detail in A.8 above, the DDC provides various buffer requirements to mitigate the impact of new, more intense development on existing single-family residences in residential zoning districts. Therefore, no significant adverse impacts on surround properties or neighborhoods due to the intensity of development in the new zoning district is expected.

6. *Public facilities and services are available to adequately serve the subject property while maintaining adequate level of service to existing development.*

The infrastructure in this area is, for the most part, already designed for the level of intensity permitted in the MD zoning district. The area is bracketed by secondary arterials and much of the underground infrastructure has recently been upgraded. In many ways, this is the area of Denton where the existing infrastructure is most prepared for additional development.

Water and Wastewater

All properties in the subject area are currently fully served by public water and wastewater lines.

Nearest Fire Station

The subject area is entirely within approximately 0.66 miles of Fire Station #1 (332 East Hickory Street), within the eight minute or less response time boundary.

Parks

The entire area is within 0.6 miles of Wolff's Park and 0.81 miles of Quakertown Park. In addition, any new multifamily developments which this rezoning may facilitate will be required to pay park dedication and development fees, which could assist with the potential future construction of a new park in this area, as envisioned by the Design Downtown Denton plan.

7. *There was an error in establishing the current zoning district.*

In 2002, the entire area (minus one lot on Maple Street) was placed in the Downtown Commercial-General zoning district along with the Square and areas around the Square to the west, north, and east, indicating that all these areas were considered to be part of the overall Downtown. The Southern Downtown area was also included in the 2002 Downtown Master Plan, indicated as a potential future home for office development and a convention center.

However, the 2010 Downtown Implementation Plan (DTIP) limited its recommendations to a smaller "Downtown Core" that excluded the Southern Downtown area slightly south of Sycamore (essentially, at the point where MD zoning ends and MN begins today). The Denton 2030 Plan in 2015 continued this trend, limiting its "Downtown Denton" Future Land Use designation to almost the same "Downtown Core" identified in the DTIP, excluding most of Southern Downtown. One of the main reasons for this pattern of exclusion was likely the FEMA floodplain which covered much of Southern Downtown at the time, precluding most new development and redevelopment, and making it difficult to envision the area ever developing as part of a vibrant downtown in the same way as areas closer to the Square and along Oak and Hickory Streets.

Given the guidance in these various master plans, which were both in effect in 2019, as well as the ongoing presence of the FEMA floodplain in Southern Downtown, when it came time to craft the 2019 Denton Development Code, the decision was made to limit the new Mixed-Use Downtown (MD) zoning district to only the "Downtown Core" identified in the DTIP and reinforced by the Denton Plan 2030 FLUM. Accordingly, when all of the old 2002 zoning districts transitioned to new 2019 zoning district, the DC-G zoned properties in Southern Downtown transitioned to Mixed-Use Neighborhood (MN), rather than MD. MN was considered more appropriate for areas that were close to Downtown, but not expected to develop as a fully-integrated part of Downtown. Thus was the Southern Downtown separated by zoning from the areas to the north, limiting the ability of these southern lots to develop in a downtown style and with downtown uses.

But, after 2019, the perspective on the Southern Downtown area began to change, ironically shifting back towards what had been the consensus view of the area in 2002. The Denton 2040 Comprehensive Plan included all of Southern Downtown in its "Downtown Denton" Future Land Use area, not differentiating it from the DTIP area to the north and northeast. In 2024, the Design Downtown Denton (DDD) plan, in response to the FLUM designation, as well as to the transformational change that came to the area with the completion of the PEC-4 project to remove most of the FEMA floodplain, identified

Southern Downtown as the key area for new growth and development in Downtown. As discussed above, the DDD recommended studying rezoning the subject area from MN to MD, as a first step toward encouraging the development of the area as the new Southern Downtown.

Therefore, while there were reasons, including the limiting presence of the floodplain, for the decision in 2019 to transition Southern Downtown from DC-G to MN, instead of MD, those reasons are no longer relevant, and this zoning change provides an opportunity to correct that prior decision and once again provide property owners in the subject area the freedom and flexibility to develop as a true part of Downtown.