MEMORANDUM

TO: Mayor and Council Members

FROM: Rosie Truelove, Director, Housing and Planning Department

DATE: June 3, 2022

SUBJECT: Information and Analysis relating to Vertical Mixed Use Program

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The attachments to this memo contain information provided and analysis conducted relating to Resolution 20211118-052 initiating amendments to City Code Chapter 25-2, Subchapter E: (Design Standards and Mixed Use), Article 4: Mixed Use, 4.3 Vertical Mixed Use Buildings, regarding the Vertical Mixed Use (VMU) Program. This includes previous answers through Council Q&A, as well as additional recent analysis.

Additional information can also be found in the VMU presentation presented to the Council Housing and Planning Committee on May 31, 2022.

Should you have questions, contact Erica Leak at erica.leak@austintexas.gov or Sam Tedford at sam.tedford@austintexas.gov.

cc: Spencer Cronk, City Manager
J. Rodney Gonzales, Assistant City Manager

April 21, 2022

Questions and Answers Report

Mayor Steve Adler
Council Member Natasha Harper-Madison, District 1
Council Member Vanessa Fuentes, District 2
Council Member Sabino "Pio" Renteria, District 3
Council Member Josè “Chito” Vela, District 4
Council Member Ann Kitchen, District 5
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Item #33: Conduct a public hearing and consider an ordinance amending City Code Chapter 25-2, Subchapter E, Section 4.3 relating to Vertical Mixed Use buildings.

COUNCIL MEMBER KITCHEN'S OFFICE

1) Please provide the most current summary data on VMU units.

1. VMU Developments	In Planning	Under Construction	Completed	Total
Certified VMU Projects	**25**	**11**	**37**	**73**
VMU Housing Units	**6,345**	**2,563**	**6,793**	**15,701**
Income-Restricted Units	641	549	678	1,868
Market-Rate Units	5,704	2,014	6,115	13,833
Rental	100%	98%	95%	97%
Ownership	0%	2%	5%	3%

Data source: Affordable Housing Inventory (accessed 4/18/22)

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MAYOR ADLER'S OFFICE

1) *What is the impact of compatibility on properties currently zoned VMU? Please include an analysis of what percentage of properties can realize VMU1, VMU2, and which properties have recently redeveloped (and will likely not be redeveloped soon). How do other cities enact policies similar to our compatibility rules?*

Staff created an [interactive map to view the relationship between VMU-zoned sites and current Compatibility Standards.](#) This map identifies where VMU-zoned sites are located as well as where VMU buildings are in development or completed. The map also demonstrates allowable heights of VMU-zoned sites after compatibility standards were applied.

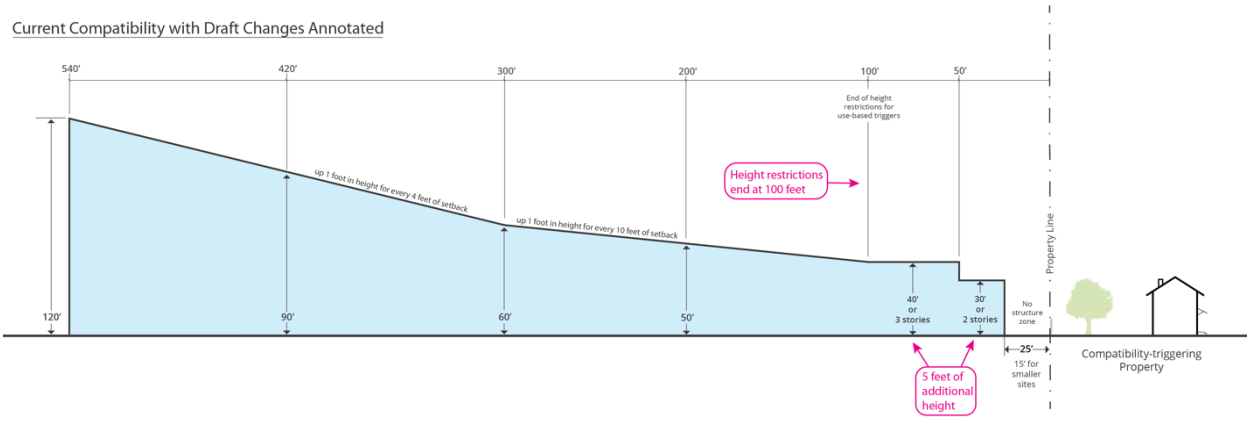
In an analysis of VMU-zoned parcels that have not developed since VMU regulations were adopted, staff found that 53% could not build to their base zoning height due to current compatibility standards. Additionally, more than 66% of those sites could not utilize the 30 foot height bonus offered in VMU2 due to current compatibility standards.

The City of Austin's current compatibility standards apply to sites that are within 540 feet (or nearly two downtown blocks) of the property line of an urban family residence (SF-5) or more restrictive zoning district. Compatibility standards also apply when a site is adjacent to a lot on which a use permitted in an SF-5 or more restrictive zoning district is located.

Current compatibility standards include:

- Height and Setback Limitations
- Scale and Clustering Requirements
- Screening Requirements
- Design Regulations

The dimensional characteristics of the City's current compatibility standards are shown in the image below with annotations in pink text showing the proposed compatibility standards in the Land Development Code Revision Draft 2:



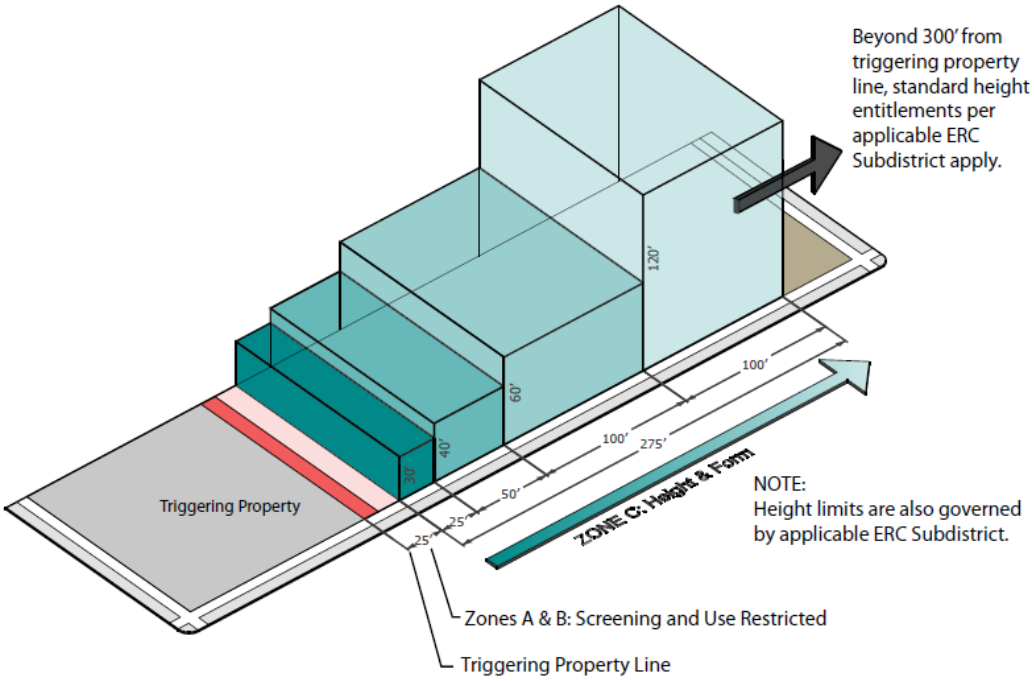
The table below shows the dimensional characteristics of the City's current compatibility standards and what was proposed in the LDC Revision Draft 2.

Side Setback	Rear Setback	Height limit within 50'	Height limit within 100'	Height limit beyond 100'

Austin's Current Standards	15 to 25 feet[4]	15 to 25 feet[4]	30 feet & 2 stories	40 feet & 3 stories	Gradually increases until 540' from triggering property[5]
LDC Revision Draft 2 Proposed Standards	15 to 20 feet[1]	30 feet[2]	35 feet[3]	45 feet[3]	Height max. of zone

[1] Dependent on lot width and zone, higher for industrial zones
[2] Greater for some industrial zones
[3] Some zones with a higher base/bonus height not subject to compatibility
[4] Dependent on length of street frontage and site size
[5] Height limit ends at 100' it the triggering property is based on use rather than zoning

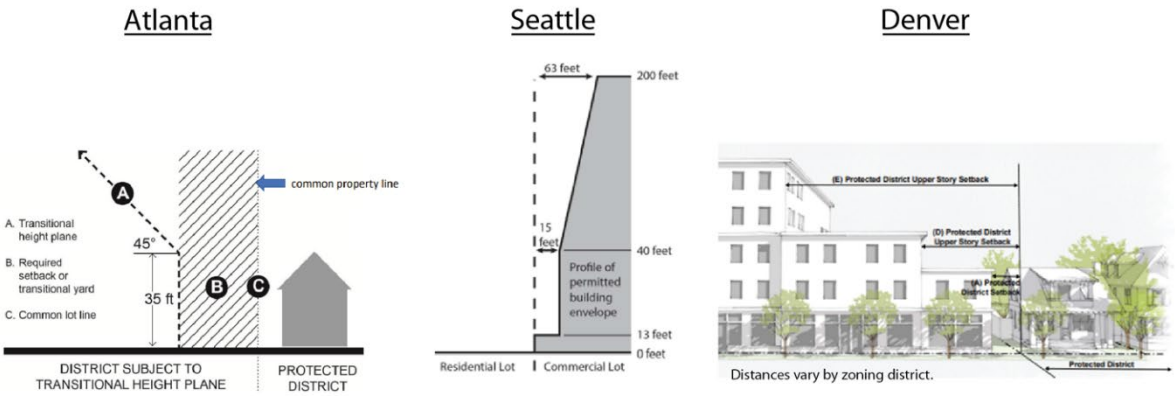
There are examples of modified compatibility standards in Austin; the East Riverside Corridor Regulating Plan uses specific, less restrictive compatibility standards in lieu of the citywide regulations. These standards are slightly more restrictive than the Draft 2 proposal but similar in concept. As shown below, 60 feet in height is allowed 100 feet from the triggering property line.



Compatibility standards in other cities:

Compared to similar regulations in Atlanta, Denver, and Seattle, Austin's compatibility standards are significantly more restrictive. All three cities have regulations that require additional setbacks and height limits adjacent to low-density residential zoning districts, known as "protected districts". In Atlanta, setbacks vary by zoning district, but under the 45-degree plane (see below) a building can reach at least 110 feet in height at 100 feet from the protected district's property line. Seattle has the least restrictive height restrictions with buildings able to reach over 300 feet in height at 100 feet from the residential property line. In Denver, zoning districts with a height maximum of 70 feet can reach full height at 40 feet from protected district's property line. Generally, zoning districts that allow more height are limited to 75 feet within 175 feet of the protected district; however, this height restriction does not apply to all zoning districts, building forms, and contexts.

Other cities researched do not include use-based compatibility standards and rely solely on zoning districts to trigger compatibility standards; Austin currently utilizes both zoning district and existing uses to trigger compatibility. Additional research is needed to examine potential untended consequences of amending use-based compatibility standards. Single family uses within Commercial Zoning Districts appear to be more frequently located within the Eastern Crescent and track with historically liberal application of higher intensity zoning districts within Communities of Color.



2) *What changes to the LDC or otherwise would have the greatest impact on housing supply and housing affordability that could be broadly supported?*

Several potential code changes related to housing supply and affordability were considered during the LDC Revision process, with additional ideas identified throughout 2020-2021. While staff cannot gauge level of support for particular proposals, following is a brief summary of more significant items emphasizing level of impact and overall areas of consensus.

- ***Allowing more high-density residential uses along identified corridors distributed equitably throughout Austin, through the use of affordable housing incentives.***
    - Supported in concept during the LDC Revision Process, though perspectives differed on the extent and location of proposed changes.
    - Could be implemented through wider application of existing or revised Vertical Mixed Use (VMU) zoning regulations or modified MF zoning regulations that

increase height limits (potentially from 60 to 75 feet) through the use of affordability incentives.
    - Positive impact on affordability and housing supply, as well as transit-supportive density. Identifying additional corridors in West Austin proved to be a challenge during the LDC Revision process but would increase housing supply and affordable housing more equitably throughout Austin.
    - Supported by in-process code amendments to increase allowable heights for vertical mixed-use projects that provide income-restricted housing benefits and allow residential in commercially-zoned parcels that provide income-restricted housing benefits
- ***Modify compatibility standards for properties along corridors.***
    - Supported in concept during the LDC Revision Process, though perspectives differed on the extent and location of proposed changes.
        - Based on review of peer-city compatibility regulations, the most impactful change to increase housing capacity would be to adjust and reduce the building height restrictions. Adjusting height restrictions could also increase opportunities for housing affordability for developments that would be able to take advantage of additional height to provide affordable units.
- ***Changing parking regulations to increase residential units.***
    - Reducing minimum parking requirements was supported in concept during the LDC Revision process, though perspectives differed on the location and extent of proposed reductions. In general, while reduced parking minimums may facilitate additional residential housing options and transit-supportive density, they do not significantly impact housing capacity or affordability.
    - Greater use of parking maximums, especially near Project Connect lines, has the potential to positively impact housing capacity and affordability, as well as transit-supportive density. However, this idea was opposed by the development community throughout the LDC Revision process.
- ***Allowing accessory dwelling units (ADUs) by-right in all single-family zoning districts.***
    - Greater allowance for ADUs (detached and internal) was supported in concept during the LDC Revision process, though perspectives differed as to appropriate site development standards, parking requirements, number of units, and effect of the "Preservation Incentive."
    - While unlikely to significantly impact overall housing capacity or affordability, ADUs provide greater choice in housing types and more transit-supportive density.
    - In response to Resolution No. 20211209-064, staff will propose changes to ADU regulations for Council to consider later this year.
- ***Changes to lot sizes and subdivision regulations.***
    - Reducing minimum lot sizes will facilitate “fee simple” ownership for residential units, rather than requiring use of a condominium regime. Reduced lot sizes for ADUs and townhomes were supported in concept during the LDC Revision process, though perspectives differed on the level of reduction.

    - Apart from lot size reductions, allowing use of a streamlined "amended plat" process to create residential lots may also help facilitate fee-simple ownership as an alternative to condo regimes. This idea was supported in concept during the LDC Revision process.
- ***Optimize affordable housing in Planned Unit Developments (PUDs).***
    - Include affordable housing as a required "Tier 1" community benefit.
    - Enhance affordable housing requirements in "Tier 2."
    - Add provisions to affirmatively further Fair Housing and improve inclusive, equitable outcomes within PUDs.
- ***Allowing fourplexes by-right in all single-family zoning districts within a specified distance of identified corridor types.***
    - With appropriate consideration for areas most at risk for displacement, this proposal may help increase housing options and provide more transit-supportive density.
    - Depending on how widely this proposal is applied, it may improve affordability and/or help to reduce the pace of increases in housing prices relative to new single-family houses that are easiest to build under the City's current LDC.

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MAYOR PRO TEM ALTER'S OFFICE

1) *Of the estimated 34% of VMU-zoned sites that could potentially build to the bonus height under VMU2 after compatibility standards are applied, how many of those parcels have single family zoning or uses within 200 feet of the parcel?*

   In an analysis of VMU-zoned parcels that have not developed since VMU regulations were adopted, staff found that 34% might be able utilize the 30 foot height bonus offered in VMU2 with current compatibility standards on at least part of the site. Thirty-six percent of those parcels are within 200 feet of a single family zoning district or single family use. Therefore, approximately 12% of the total number of VMU-zoned parcels that haven't redeveloped since 2010 may be able to utilize the 30 foot height bonus *and* are within 200 feet of a single family zoning district or single family use.

2) *Of the properties that meet the conditions listed above, how many of those VMU properties have a sufficient amount of single family zoned land or uses within 200 feet of their parcel that would allow those properties to constitute at least 20% of the total property within 200 feet of the VMU parcel?*

   Any calculations of applicable rezoning protests would be conducted on applicable cases after formal protests have been received.

3) *Please provide a map of both of these scenarios.*

   Additional staff capacity would be needed for the level of detail requested.

May 19, 2022

Questions and Answers Report

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Item #48: Council discussion related to regulations applicable to Vertical Mixed-Use buildings. Public comment will be heard, but no action taken.

COUNCIL MEMBER KITCHEN'S OFFICE

Staff suggested, as part of their VMU mapping, that 53% of the parcels could not build to their base zoning height due to current compatibility standards and 66% of those sites could not utilize the 30 foot height bonus offered in VMU2 due to current compatibility.

As we overlay the lot depth analysis mapping we recognize many of these VMU lots are small and/or very narrow in depth. We have gotten some feedback during other zoning cases related to parking garage size requirements and indications that those requirements can be limiting factors on ability to utilize structured parking.

1) *What is a minimum lot size necessary to utilize structured parking?*

   There is no minimum lot size prescribed in the code for the utilization of structured parking, and VMU developments have no minimum site area requirements.

   The size of parking garages will scale depending on the size of the development. There are VMU projects that utilize structured parking that are on lots smaller than 13,000 square feet; however, the median lot size of complete VMU projects is about 100,000 square feet.

   The viability of structured parking is highly contextual and changes quickly with technology advancements and economics. This question is best suited for individual developers to answer depending on the project.

2) *Are there tracts in the "Vertical Mixed-Use 2 and Compatibility" mapping that are too small to provide structured parking?*

   See response to question 1.

   The "Vertical Mixed-Use 2 and Compatibility" web map is showing all sites with VMU zoning regardless of parcel size.

   In the summary calculations about the impact of compatibility on VMU feasibility that staff included in Council backup, sites smaller than 10,000 square feet were excluded. Additionally, sites that could not achieve the proposed VMU2 bonus height for 10,000

contiguous square feet in area were also not considered feasible. Staff used 10,000 square feet as a general threshold for this type of development.

3) *Are there tracts in the mapping that are too small to functionally support a 60' structure? A 90' structure? What percent and why? What factors impact?*

   VMU developments have no minimum site area requirements. Much like with structured parking there are many variables at play that may affect development feasibility for different projects such as site-specific constraints, construction type, and construction costs. Staff used 10,000 square feet as a general threshold for this type of development.

   Nearly 75% of VMU-zoned parcels are larger than 10,000 square feet outright. However, the remaining parcels could be aggregated with adjacent sites and still potentially support this type of development.

   See response to question 2.

4) What percent of parcels can't build to their base zoning height because of dimensional / physical constraints?

   Staff do not have capacity to complete analysis with this level of site-specific detail.

5) *What percent of parcels can't build to their base zoning height because of factors other than compatibility?*

   Staff do not have capacity to complete analysis with this level of site-specific detail.

6) *Are the 55% and 66% staff indicated numbers changed when factoring for dimensional / physical constraints due to limited size of parcel?*

   See response to question 2.

7) *Of the tracts identified with physical limitations, how many would be made viable with aggregation of adjacent property?*

   Staff do not have capacity to complete analysis with this level of site-specific detail.

8) *Of tracts identified with physical limitations, how many would be made viable with no on-site parking requirement?*

   Staff do not have capacity to complete analysis with this level of site-specific detail.

9) *Of the VMU tracts identified, what percentage of lots have existing relatively new development or are in the pipeline for development and what percentage of VMU zoned tracts have actual potential for future development? ie) What is actual future potential for existing V tract development?*

   Staff estimates that 9% of all VMU-zoned parcels in Austin have developed, redeveloped since 2010, or are under construction. This estimate does not include remodels of buildings that existed before 2010.

   Of the VMU-zoned sites that have developed since 2010, 36% participated in the VMU program. The remaining 64% of VMU-zoned sites that developed since 2010 did not utilize VMU. However, 6% did develop as affordable housing projects by some other means.

Staff cannot complete a site-specific analysis to analyze development potential of all VMU-zoned sites. Less than 10% of all VMU-zoned parcels have developed or redeveloped since 2010, leaving 91% of VMU-zoned parcels more likely for future development of some type. We cannot guarantee or speculate how many may develop under the VMU program.

In an analysis of VMU-zoned parcels that have not developed since 2010, staff found that 53% could not build to their base zoning height due to compatibility standards. Additionally, more than 66% of those sites could not utilize the 30-foot height bonus proposed in VMU2 due to compatibility standards. (Per the response to Q&A Number 1 from Mayor Adler for Item #33 on Council's April 21 Agenda)

Of the 91% that have not redeveloped, 71% of those are sites larger than 10,000 square feet. Site size larger than 10,000 square feet is not a strict rule for development feasibility but may give some additional context for the remaining parcels. Additionally, aggregation of adjacent property may be a factor in development feasibility for smaller sites.

Of the VMU-zoned parcels that have not developed since 2010, 58% have Conditional Overlays, or CO. CO's may control several different site development standards on a site including limiting height, building size or coverage, or others. Staff were not able to research all 800+ CO's on VMU-zoned sites but acknowledge that they may further restrict development potential.

Additional VMU and Compatibility Analysis

Date: 6/2/2022

This analysis shows what proportion of developable VMU properties could achieve their maximum height if height limits from compatibility standards are limited to the following distances from triggering properties:

- 50 ft from a triggering property
- 100 ft from a triggering property
- 200 ft from a triggering property
- 300 ft from a triggering property

Analysis Details

There are approximately 1,675 parcels that have VMU zoning. Ninety percent of those parcels have not redeveloped since 2010. Seventy-three percent are on sites larger than 10,000 square feet. Sixty-three percent of the total number of parcels with VMU zoning have not redeveloped since 2010 *and* are on parcels larger than 10,000 square feet. The parcels with VMU zoning that have not redeveloped since 2010 and that are larger than 10,000 square feet were the baseline for the calculations in this analysis.

Parcels with CS, GO, and GR zoning districts have a base height of 60 feet and a bonus height of 90 feet under the proposed VMU2. Parcels with these base zones were considered “achievable” if the base or bonus height was at least 10,000 square feet of contiguous area. This threshold was set so as not to include parcels that may be able to achieve the bonus height on a small sliver on their site.

Parcels with LO, LR, and NO zoning districts have a base height of either 35 or 40 feet and a bonus height of 65 to 70 feet under the proposed VMU2. These parcels account for approximately 8% of the total number of VMU-zoned sites. Parcels with these base zones did not have an area limitation for their base height to be considered “achievable.” Parcels with these base zones were considered “achievable” if the bonus height was at least 10,000 square feet of contiguous area.

For this analysis, compatibility was triggered by distance for SF-5 or more restrictive zoning sites or by adjacency in the case of use-based compatibility triggers and was not restricted to a single side of the corridor. Compatibility could apply across corridors for zoning-based triggering sites as well.

This analysis reflects only the impact of compatibility standards on achievable height. There may be other site-specific conditions or zoning-related regulations that may affect these sites and further decrease these estimates.

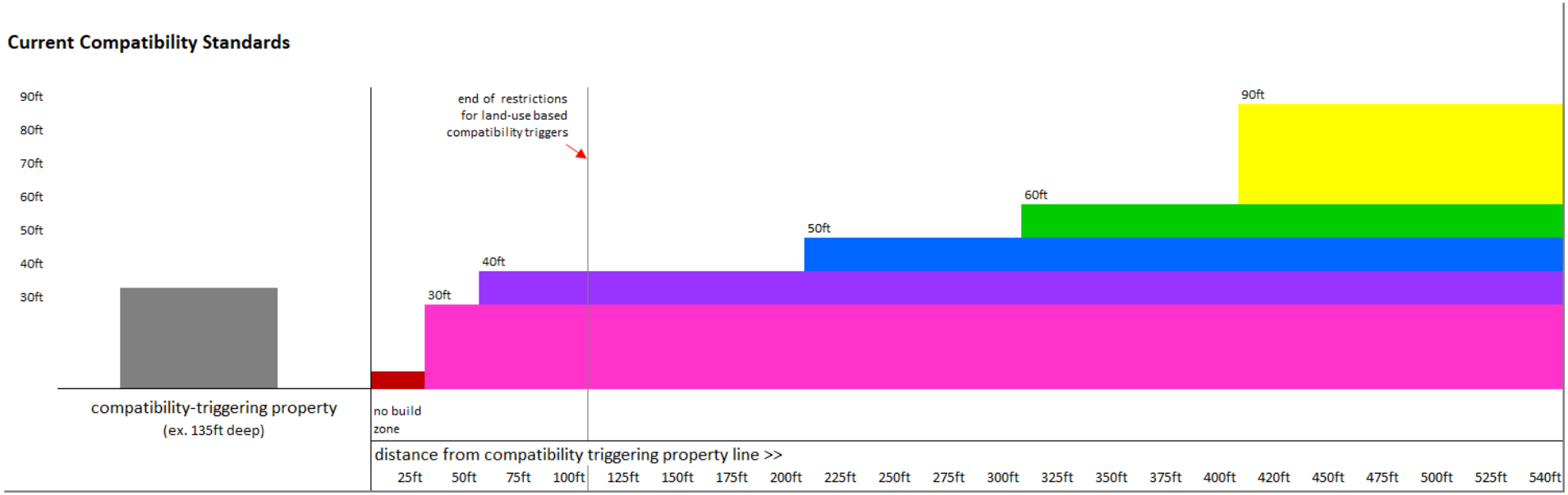
Summary Table

	Applicable Compatibility Distance	Achievable VMU Heights: Base	Achievable VMU Heights: Bonus *(VMU2)*
Zoning and Land Use Triggers	current standards - 540ft	46%	33%
	V1 - 300ft	49%	40%
	V2 - 200ft	62%	53%
	V3 - 150ft	71%	62%
	V4 - 100ft	81%	73%
	V5 - 50ft	96%	90%
Zoning Triggers Only	V1 - 300ft	56%	46%
	V2 - 200ft	70%	61%
	V3 - 150ft	78%	70%
	V4 - 100ft	86%	79%
	V5 - 50ft	96%	90%

See graphics below showing the maximum potential building heights if height limits from compatibility standards are limited to various distances from triggering properties

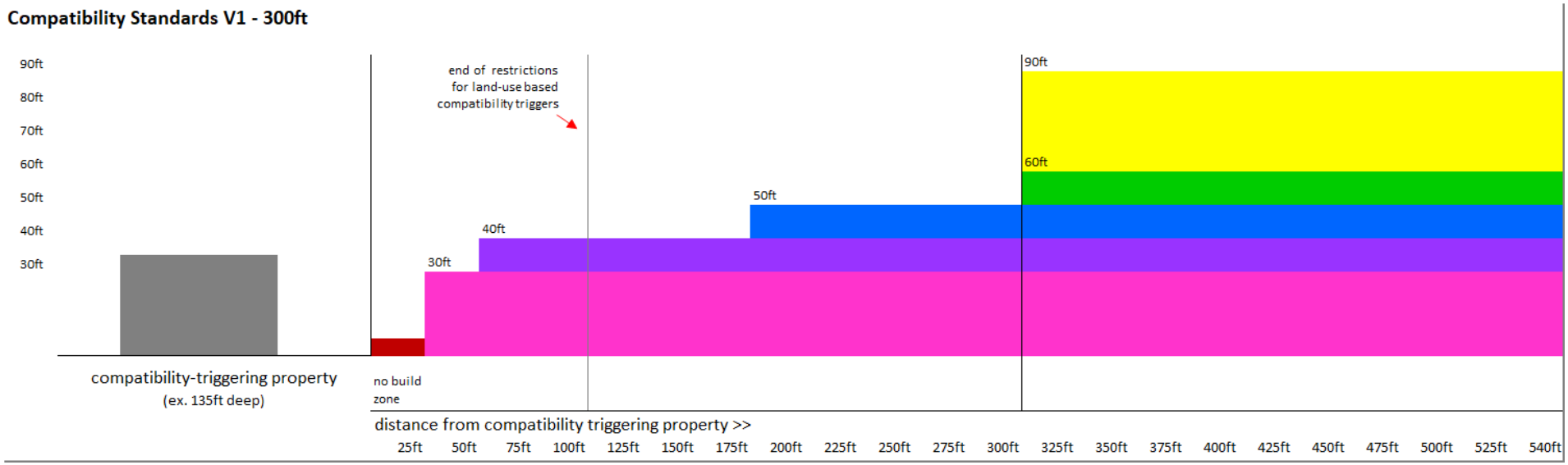
Scenario Visuals

Current Compatibility Standards



Under current compatibility standards, **46%** of the analyzed VMU-zoned parcels could achieve their base zoning height and **33%** could achieve the bonus height under VMU2.

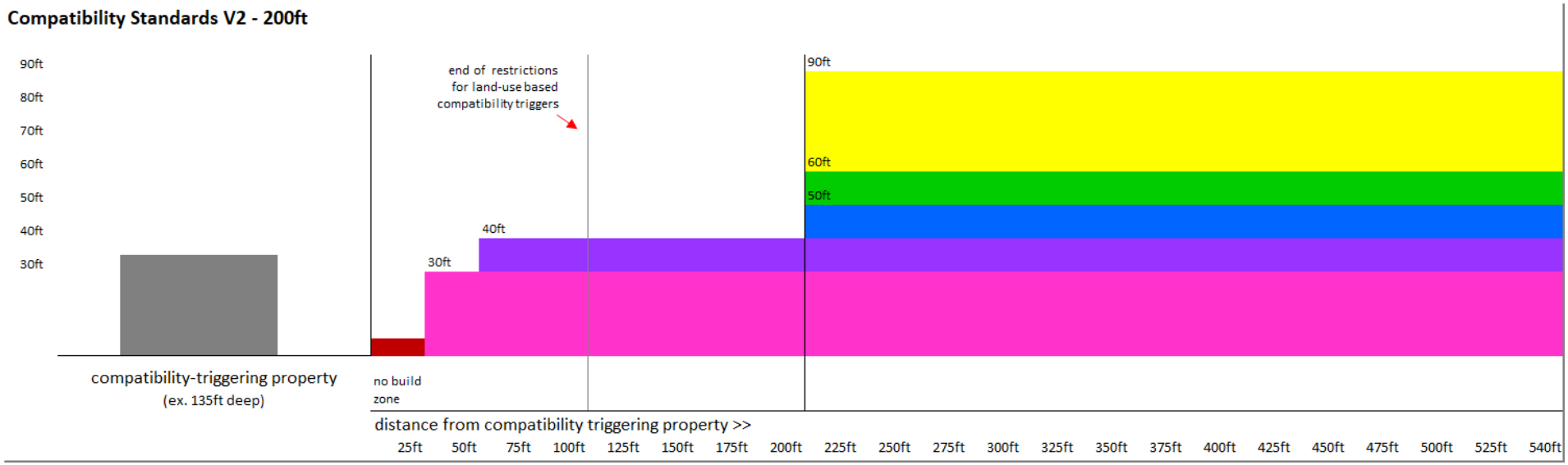
V1 – 300ft Compatibility Limit



In a scenario where compatibility standards are limited to 300ft from a triggering property and other height setbacks and criteria that can trigger compatibility remain the same as today, **49%** of the analyzed VMU-zoned parcels could achieve their base zoning height and **40%** could achieve the bonus height under VMU2.

In a scenario where compatibility standards are limited to 300ft from a triggering property, compatibility standards are triggered only by SF-5 and more restrictive zoning, and other height setbacks remain the same as today, **56%** of the analyzed VMU-zoned parcels could achieve their base zoning height and **46%** could achieve the bonus height under VMU2.

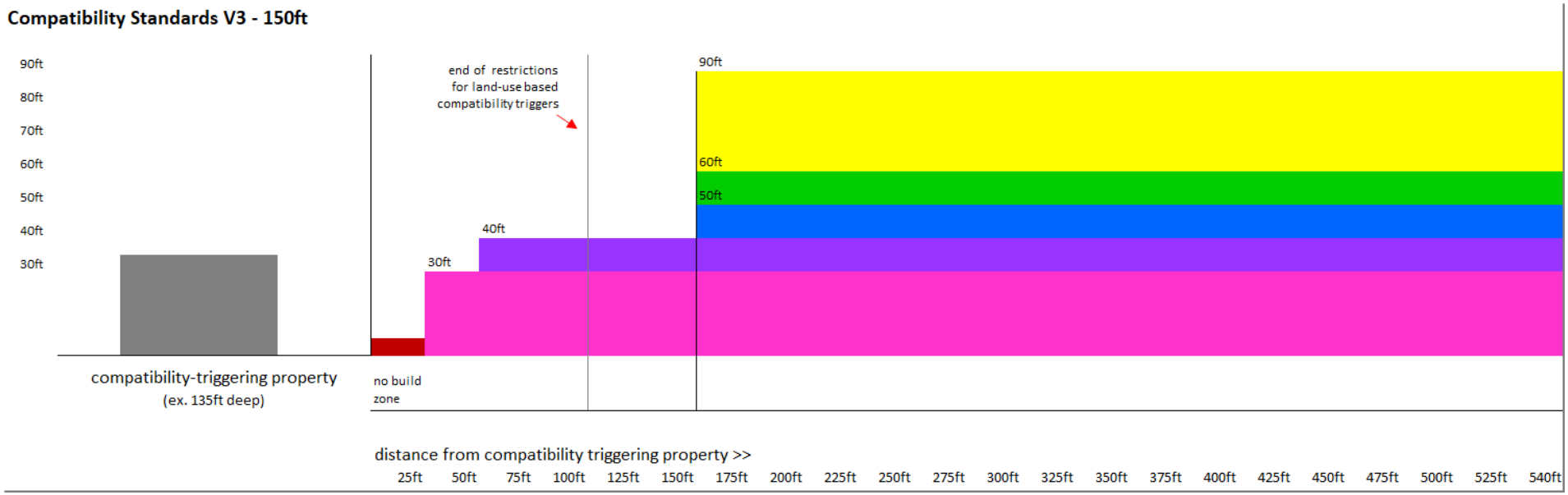
V2 – 200ft Compatibility Limit



In a scenario where compatibility standards are limited to 200ft from a triggering property and other height setbacks and criteria that can trigger compatibility remain the same as today, **62%** of the analyzed VMU-zoned parcels could achieve their base zoning height and **53%** could achieve the bonus height under VMU2.

In a scenario where compatibility standards are limited to 200ft from a triggering property, compatibility standards are triggered only by SF-5 and more restrictive zoning, and other height setbacks remain the same as today, **70%** of the analyzed VMU-zoned parcels could achieve their base zoning height and **61%** could achieve the bonus height under VMU2.

V3 – 150ft Compatibility Limit



In a scenario where compatibility standards are limited to 150ft from a triggering property and other height setbacks and criteria that can trigger compatibility remain the same as today, **71%** of the analyzed VMU-zoned parcels could achieve their base zoning height and **62%** could achieve the bonus height under VMU2.

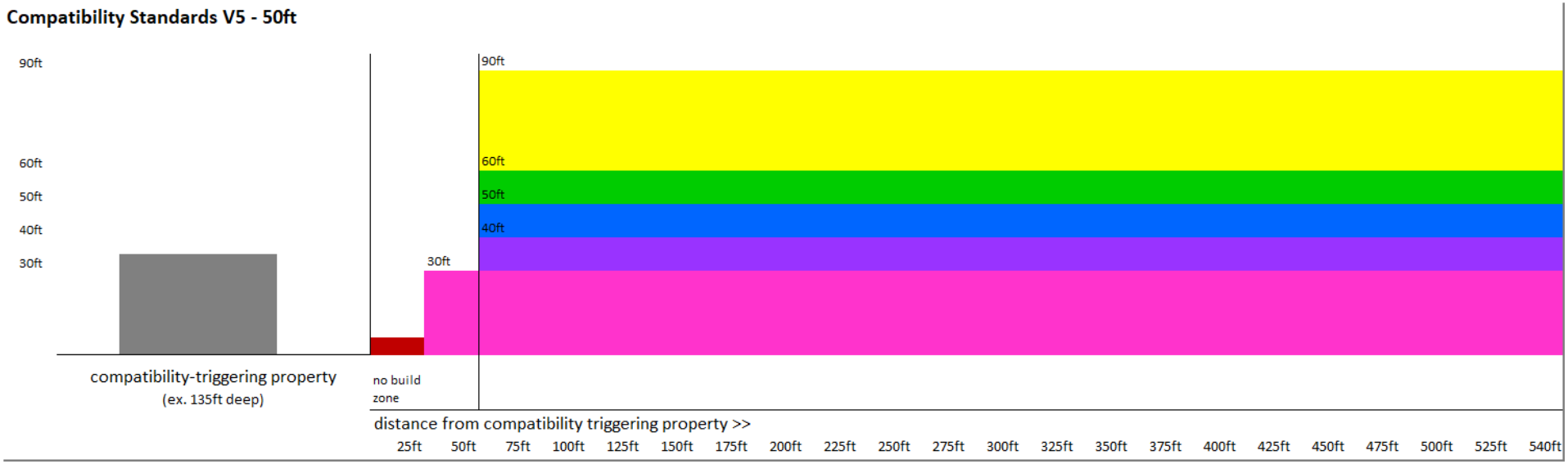
In a scenario where compatibility standards are limited to 150ft from a triggering property, compatibility standards are triggered only by SF-5 and more restrictive zoning, and other height setbacks remain the same as today, **78%** of the analyzed VMU-zoned parcels could achieve their base zoning height and **70%** could achieve the bonus height under VMU2.

V4 – 100ft Compatibility Limit

In a scenario where compatibility standards are limited to 100ft from a triggering property and other height setbacks and criteria that can trigger compatibility remain the same as today, **81%** of the analyzed VMU-zoned parcels could achieve their base zoning height and **73%** could achieve the bonus height under VMU2.

In a scenario where compatibility standards are limited to 100ft from a triggering property, compatibility standards are triggered only by SF-5 and more restrictive zoning, and other height setbacks remain the same as today, **86%** of the analyzed VMU-zoned parcels could achieve their base zoning height and **79%** could achieve the bonus height under VMU2.

V5 – 50ft Compatibility Limit



In a scenario where compatibility standards are limited to 50ft from a triggering property and other height setbacks and criteria that can trigger compatibility remain the same as today, **96%** of the analyzed VMU-zoned parcels could achieve their base zoning height and **90%** could achieve the bonus height under VMU2.

In a scenario where compatibility standards are limited to 50ft from a triggering property, compatibility standards are triggered only by SF-5 and more restrictive zoning, and other height setbacks remain the same as today, **96%** of the analyzed VMU-zoned parcels could achieve their base zoning height and **90%** could achieve the bonus height under VMU2.