Qualified Opportunity Zones

Presented by

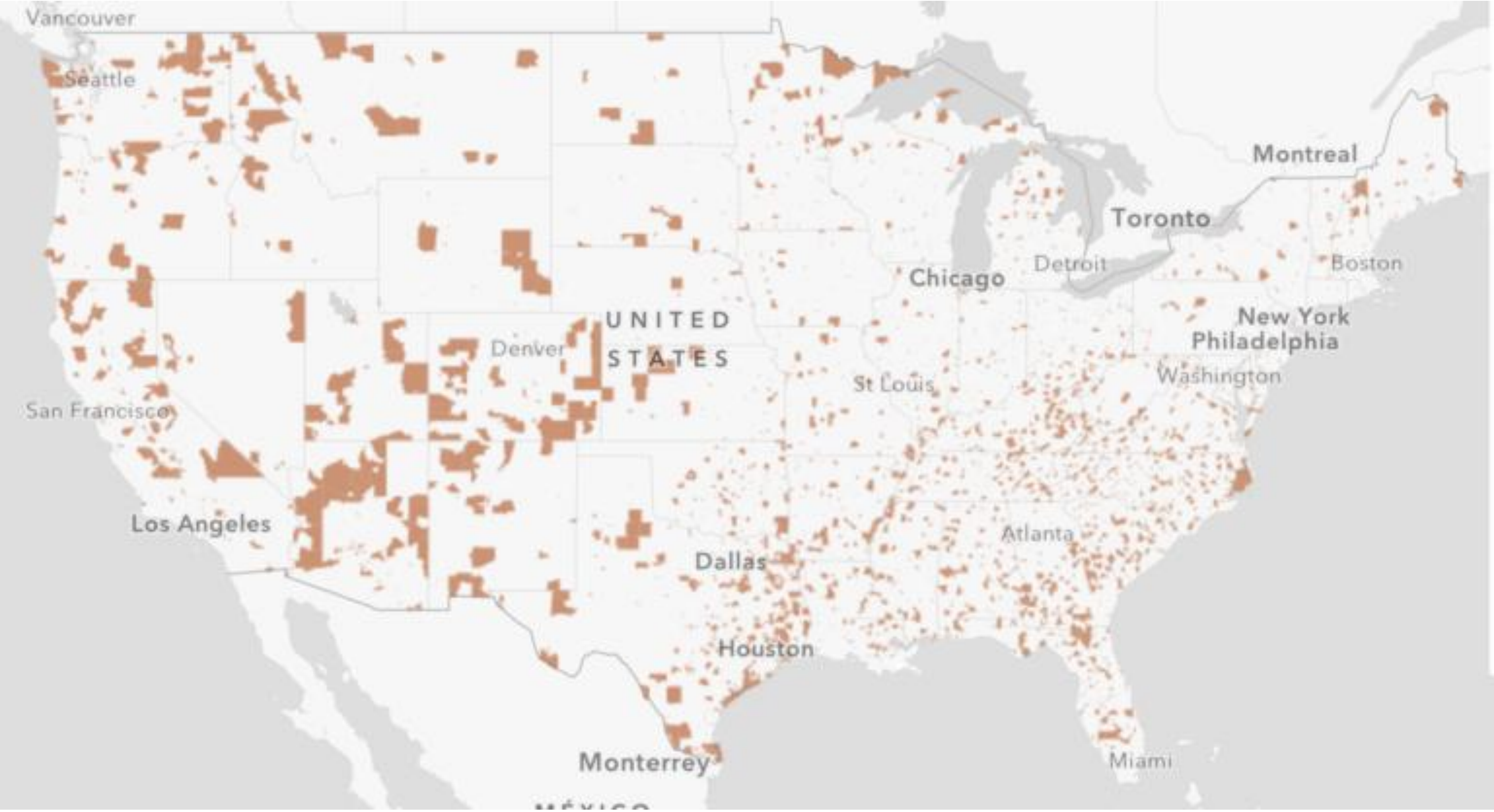
Finney County Economic Development Corporation

POLSINELLI

Special thanks to Korb Maxwell and Polsinelli for this presentation

How we got here…

- Qualified Opportunity Zones (QOZs) were created through the federal 2017 Tax Cuts and Jobs Act in December 2017
- In Kansas, Governor Colyer was allowed to nominate 74 census tracts **(about 10% of the total tracts in Kansas that met the criteria)** for federal approval
- In March of 2018, FCEDC submitted a QOZ proposal on behalf of Finney County to Governor Colyer
- Two census tracts in Finney County were selected through the competitive process



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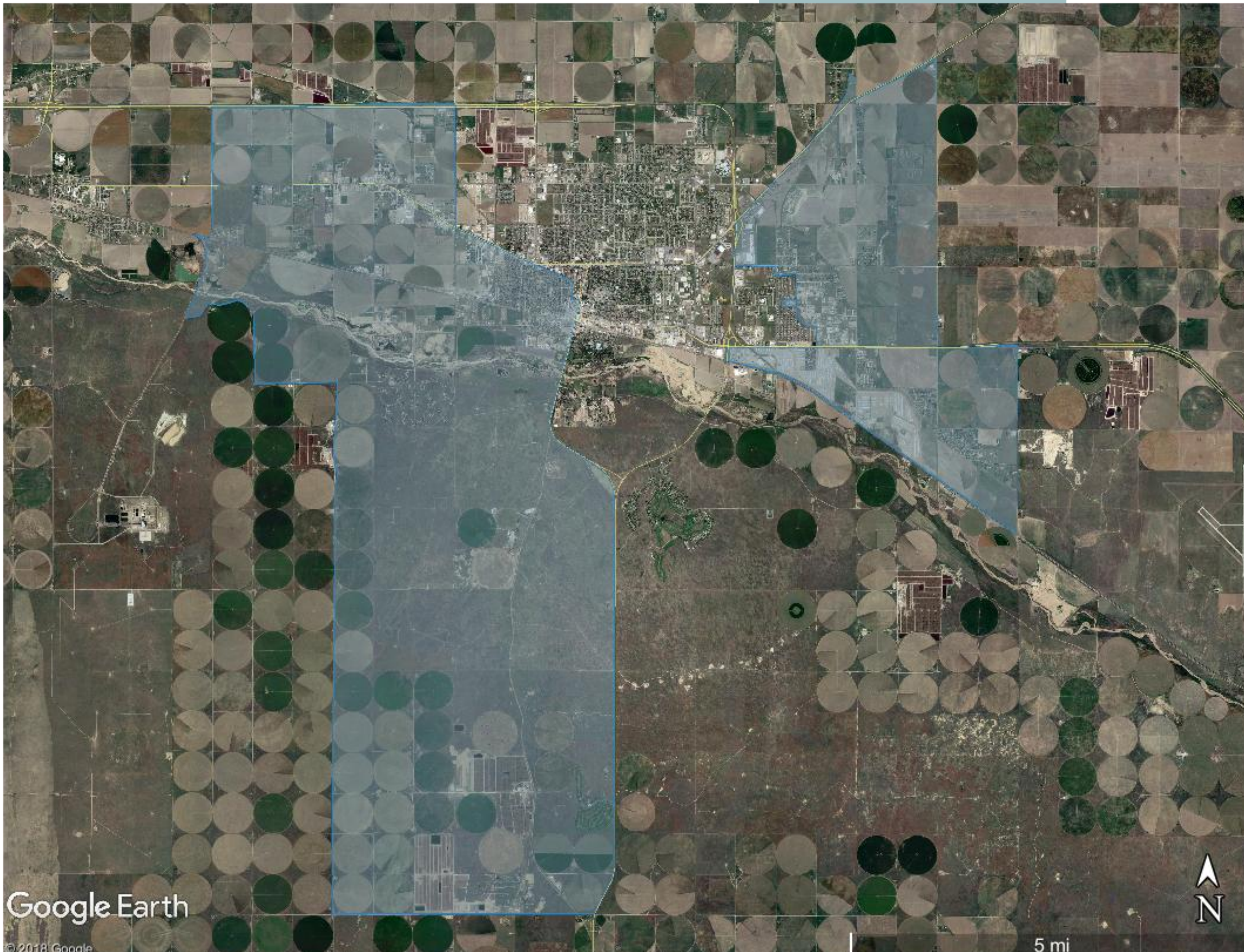
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Benefit to the community

- Opportunity Zones offer incentives for private investors to support underserved communities by allowing for deferral or elimination of federal capital gains taxes. Today, these unrealized capital gains are a significant untapped resource. Allowing capital gains to be reinvested in qualified Opportunity Zones can help to spur economic growth in the communities that need it most.
- Among other things, Opportunity Funds can be used to finance new infrastructure and affordable housing, promote job growth, and support workforce development.

Kansas Department of Commerce

Tax Incentive Benefits

how the deferral works

- Time value of money – earlier of:
  - Date the investment is sold or exchanged; or
  - December 31, 2026
- Gain recognition
  - Amount of gain (or Fair Market Value)
  - less: the taxpayer's basis in the fund
- Partial Forgiveness of Gain – Step up in basis
  - 5 year (10%)
  - 7 year (15%)
- Forgiveness of additional gain
  - Timing – 10 years
  - Basis

Investment Timing

- An investor realizes gain from the sale or exchange of a capital asset
- This investor then has 180 days from the disposition to reinvest the gain in a Qualified Opportunity Fund, and have test dates at half-year and full-year mark to meet 90% asset test
- Partial forgiveness would happen after 5 and 7 years
- Full step-up after 10 years

Qualified Opportunity Zone Business

- A trade or business
- **Substantially all** of its tangible property (whether owned or leased) is **Qualified Opportunity Zone Business Property**

AND

- At least 50 percent of its gross income must be from the **active** conduct of a trade or business in an Opportunity Zone
- A substantial portion of its intangible property must be used in the **active** conduct of its business in an Opportunity Zone
- No more than 5 percent of the average unadjusted basis of its assets may consist of "non-qualified financial property"
- Cannot be a golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other gambling facility, or any store the principal business of which is the sale of alcoholic beverages for consumption off-premises

QOZ Business Property

Qualified Opportunity Zone Business Property is tangible property used in a trade of business if:

- It is acquired by purchase after December 31, 2017
- The original use in the Qualified Opportunity Zone commences with the Qualified Opportunity Zone Business

OR

- The Qualified Opportunity Zone Business **substantially improves** the property; and
- During **substantially all** of the holding period for such property, substantially all of the use of such property is in an Opportunity Zone.

Land
how is a land purchase treated?

- Under a revenue ruling released at the same time as the regulations, the IRS concludes that where there is a purchase of land and an existing building, only the amount allocated to the existing building must be “doubled.”

Investment of Capital Gains for Pass-Thru Entities

- Partnerships have the option of investing capital gains in an Opportunity Zone itself
- If the partnership does not invest in an Opportunity Zone, then the partners have 180 days from the end of the partnership's taxable year to invest
  - Partners can also select the 180-day period starting from the date the partnership sold the property
  - Because of these rules, partners may still be able to invest capital gains, even if 180 days has already passed
- These rules will also apply to S corporations and other pass-thru entities

Working Capital

- The proposed regulations contain a **safe harbor** for working capital that is invested in Opportunity Zone Businesses that acquire, construct, or rehabilitate tangible business property
- The safe harbor permits working capital to be held for **31 months** if there is a written plan identifying the funds and a schedule of the expected expenditures, and the funds are actually used in a manner that is "substantially consistent" with the write-up
- Working capital can be held in cash, cash equivalents, or debt instruments with a term of 18 months or less

Will Opportunity Zones work for the “real economy??”

- This will help investors in non-real estate businesses take advantage of Opportunity Zone benefits

Early Disposition of Opportunity Zone Interest

What happens if an investor wants to sell all of its interest before the end of the deferral period?

- The original gain deferral can continue if reinvested in new Opportunity Zone Funds within 180 days

Questions?

Finney County
Economic Development Corporation