



# *good morning* Metro South

**Friday, January 25, 2019**  
**at The Martin Institute @ Stonehill College**



PARTRIDGE SNOW & HAHN LLP

ROCKLAND  
TRUST



# OPPORTUNITY ZONE TAX BENEFITS

Presented To:  
**Metro South Chamber of Commerce**  
JANUARY 25, 2019

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# OPPORTUNITY ZONE TAX CREDIT

- ⌋ Enacted as part of 2017 Tax Reform
- ⌋ Draft IRS Regulations issued October 19, 2018
- ⌋ Over 8700 designated zones, covering 12% of the US
- ⌋ Treasury Secretary Mnuchin predicted it could create \$100 billion in private investment in low-income communities (WSJ 10/23/18)
- ⌋ Tremendous amount of discussion and interest in the program, not much actual investment to date.

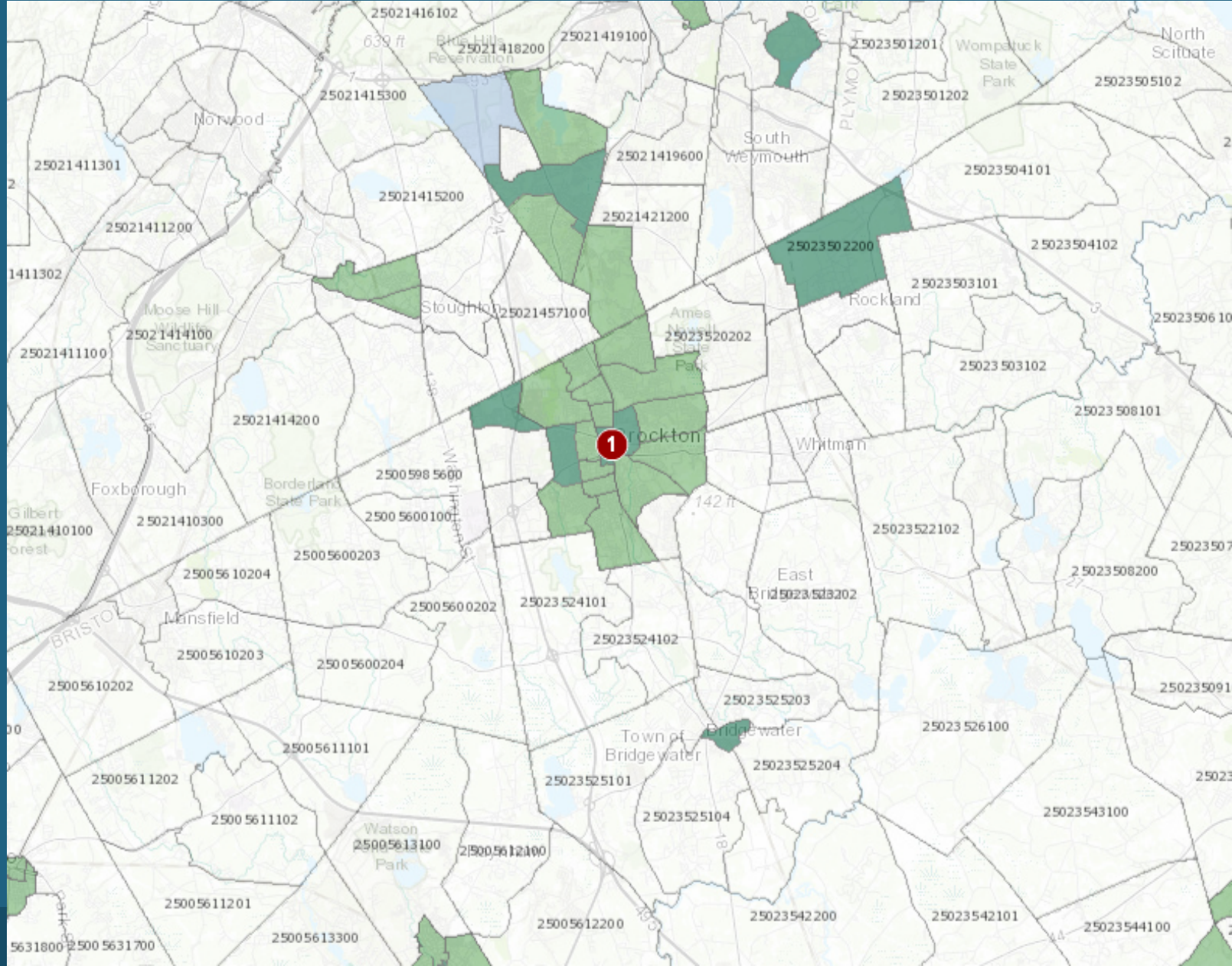
# GENERAL OVERVIEW

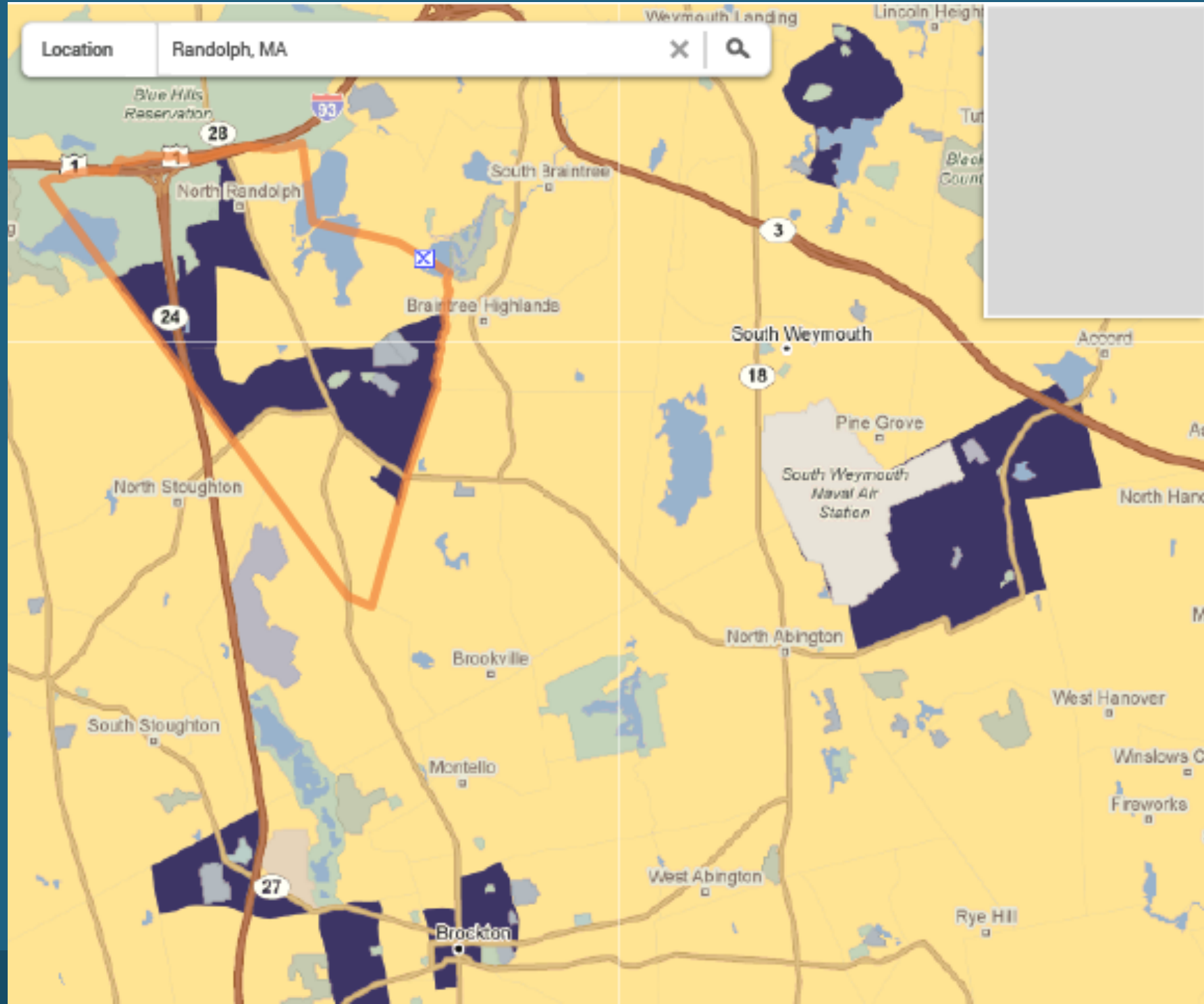
- Capital Gains invested in businesses / properties in “opportunity zones” can:
  - Defer recognition of such gain until 12/31/26;
  - Possibly exclude a percent of such deferred gain permanently; and
  - Exclude future appreciation from taxation.
- Eligible Investments have to be through “Qualified Opportunity Funds” (“QOF”)
- Massachusetts has 138 tracts in 79 communities classified as Opportunity Zones
- Opportunity Zones “disappear” after 10 years



# METRO SOUTH OPPORTUNITY ZONES

- Stoughton
- Brockton
- Rockland
- Randolph
- Holbrook
- Bridgewater





# TAX BENEFITS – 3 PRIMARY BENEFITS

## 1. Deferral of capital gain

- 🇺🇸 Invest in a QOF within a certain time period after gain realized
- 🇺🇸 Recognize gain earlier of when sell or 12/31/2026.

## 2. Exclusion of a portion of deferred gain

- 🇺🇸 Hold investment for 5 years, exclude 10% of gain permanently
- 🇺🇸 Hold investment for 7 years, exclude 15% of gain permanently
- 🇺🇸 Exclusion is accomplished via a basis step-up

## 3. Exclusion of Appreciation from taxation

- 🇺🇸 If investment is held for at least 10 years, get a step-up in basis upon disposition to FMV so exclude all appreciation from taxation.
- 🇺🇸 Investment has to be disposed of by 12/31/2047 to get full step-up in basis



# TAX BENEFIT EXAMPLE

- Investor sells property (stock or building) on April 15, 2019 for \$1.5 million
  - Her tax basis was \$1 million, so sale created a \$500,000 capital gain.
  - She finds a building in an OZ for \$1 million and invests along with another partner her \$500,000 gain on September 1, 2019 (through an LLC taxed as a partnership).
  - On her 2019 tax return she elects to defer the \$500,000 capital gain.
- 10% exclusion – if she holds onto the investment until at least September 2024, \$50,000 of the deferred gain is permanently excluded.
- 15% exclusion – if she holds onto the investment until at least September 2026, \$75,000 of the deferred gain is permanently excluded.
- 12/31/2026 – The remaining deferred gain of \$425,000 is recognized even if she still holds onto the property. She will pay capital gains tax on the \$425,000.
- She decides to sell her interests on December 1, 2031, for \$800,000. Since she held onto the property for over 10 years, her basis is “stepped-up” to \$800,000 and she recognizes Zero in capital gain. **She received \$375,000 free from federal income taxes.**



# TERMS

- “Qualified Opportunity Fund”
  - A Partnership, LLC or Corporation that holds at least 90% of its assets in “qualified opportunity zone property.”
    - Ways to bring it down to 63% by investing in sub-entities
- 3 types of Qualified Opportunity Zone Property
  - Qualified opportunity zone business property
  - Qualified opportunity zone stock
  - Qualified opportunity zone partnership interest

# QUALIFIED OPPORTUNITY ZONE BUSINESS PROPERTY

- ⌘ Tangible property used in a trade or business of a QOF if:
  1. Such property is purchased by the QOF after 12/31/17
  2. The original use of the property commences with the QOF or QOF substantially improves the property, and
  3. Substantially all of the use of the property is in a QOZ
- ⌘ Substantial Improvement
  - Over a 30-month period additions to the property exceed an amount equal to the adjusted basis of the property (not counting land)

## QUALIFIED OPPORTUNITY ZONE BUSINESSES

- ⌘ Substantially all (70%) of tangible property owned or leased by business is Qualified Opportunity Zone Business Property
- ⌘ At least 50% of the gross income is derived from the active conduct of a trade or business in the qualified opportunity zone

# RISKS AND UNCERTAINTIES

- ⌘ Investment Risk
- ⌘ Tax Rate Risk – what if the capital gains tax rate goes up?
- ⌘ Regulations are just in proposed form, not finalized
- ⌘ No guidance yet on what happens when a QOF sells a property for a gain
- ⌘ No guidance yet on the re-cycling of money in the QOF

# OPPORTUNITIES FOR REAL ESTATE COMPANIES

- ➊ Improved marketability for sale of buildings in Opportunity Zones
- ➋ Improved marketability for rental of buildings in Opportunity Zones
- ➌ Speculation – buildings in OZ have seen prices rise in anticipation



# OPPORTUNITIES FOR BUSINESSES

- Enhanced capital market availability – more funds looking to invest in zones
- Enhanced Exit strategy
- Potential windfall for internet start-ups

# QOF BENEFITS OVER §1031 EXCHANGES

- Potential for income exclusion in addition to income deferral
- Applies to any capital asset (including stock) and not just real estate
- No intermediaries involved
- Don't need to re-invest the principal
- But – limited in areas you can invest in, and more uncertainty with OZ because of lack of guidance

# PS&H OPPORTUNITY ZONE LEGAL SERVICES

- Qualified Opportunity Fund formations
  - Representation of both Sponsors and Investors
- Full-service Commercial Real Estate, Leasing and Financing Counsel
- Full-service Business Law Group
- Structuring Advice
- Tax Advice

# QUESTIONS?



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## UPCOMING CHAMBER EVENTS

Visit [www.metrosouthchamber.com](http://www.metrosouthchamber.com) for details.

**February 22:** Good Morning Metro South: Brunch Edition @ Southeastern Technical Institute, Easton

**March 7:** 4<sup>th</sup> Annual Multi-Cultural Business Forum & Business After Hours @ The Perfect Place, Brockton

**April 24:** 27th Annual A Taste of Metro South @ The Shaw's Center, Brockton