Opportunity Now for Communities at Contaminated Sites



Presentation with U.S. EPA Superfund Redevelopment Program



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Overview of Presentation

- Tremendous opportunity for local revitalization in the post-COVID era – including at contaminated sites
- * Opportunity Zones as a major tool for investments at contaminated sites
 - Original use, substantial improvement, vacant lands, involuntary acquisition, horizontal development at brownfields & Superfund sites
- Practical steps for localities
 - > Key areas for OZ investment
 - Get "shovel-ready" & "investment-ready"
 - Make the pitch
 - Show me the money!



Revitalizing What is Idled

- * But like a contaminated site can rise
- * शिष्ट अन्निरुक्षित्र स्तिशितिनित्र निर्मानित्र स्तिशिति America & its communities
- * America and its communities have
- tremendous opportunity now to rise
 Like an idled brownfield or CERCLA site up and build back better



Resources for Redevelopment

- Many federal agencies are prioritizing grant funding in Opportunity Zones
- * U.S. EPA Brownfields, Superfund, and Land Revitalization appropriations are as high as ever
- * \$1.5 trillion U.S. House "Moving Forward Act" legislative package increases brownfield grant funding to \$350M in 2021, up \$50M each year to \$550M in 2025
- * New "American COMPETE Act", "Energy Act of 2020", and Presidential E.O.s on "Buy America" and "America's Supply Chains" provide new resources for redevelopment
- * "American Rescue Plan Act of 2021" providing billions for community revitalization
- * Forthcoming "Build Back Better Recovery Plan" could mean trillions in infrastructure, manufacturing & clean energy investment

These are the kind of resources that can prepare OZ sites to be shovel-ready & investment ready



Opportunity Zones & Opportunity Funds

- * In 2017, Tax Cuts & Jobs Act created bipartisan Opportunity Zone program
- * Took a while for U.S. Treasury to created regulatory structure (then COVID!)
- * EPA took proactive role in ensuring that brownfields, vacant land & other contaminated sites were part of Opportunity Zones
- EPA Superfund Redevelopment Program & key stakeholders made sure
 OZ benefits can extend to Superfund sites



Key Concepts for Contaminated Sites & Opportunity Zones

- * IRS requires that Opportunity Funds invest assets in a "Qualified OZ Business" or "Property"
- A Qualified OZ Property must be within an OZ and must either commence an "original use" or "substantially improve" the property by doubling the property basis within 30 months
- * IRS regulation boosts brownfields & contaminated sites:
- Site preparation & horizontal development costs can be QOF investment, if tied to vertical development
- Sites that meet CERCLA definition of brownfields meet "original use" test and are not bound by strict timelines to "substantially improve"
- Sites that are **vacant** (i.e., at least 80% of land/building is "significantly unused") at time of and on the date of OZ designation, and at least 1 year before purchase of site, can meet "original use"
- OZ requirement that QOF capital be deployed in 31 months is tolled for brownfield regulatory permitting delays
- A redeveloper that purchases a site from a local government which acquired the site via "involuntary acquisition" can meet "original use" test



Local Government "Involuntary Acquisition"

Local government sovereign acquisition

- ➤ IRS Opportunity Fund regulations permit that an entity that purchases real property from a local government that the local government holds as a result of an "involuntary transfer" may treat the property as meeting the original use test
- * Sovereign local acquisition can include tax/demolition/other foreclosures, transfers between some governmental units, TIF transactions, eminent domain for public use, escheat, conservatorship
- * Brownfield BUILD Act of 2017 clarifies and improves the local acquisition law, and EPA's Office of Site Remediation Enforcement has guidance on these new rules



Make Opportunity Zones Work for your local community's redevelopment

- Create a community vision for your
 Superfund or brownfield site
 - Brightfields & renewable energy (see EPA Repowering America's Land & other tools at www.epa.gov/re-powering)
 - New Manufacturing on Old Brownfields (see EPA guidebook)
 - ➤ Real estate development in a post-COVID & equity era (see, e.g., www.SmartGrowthAmerica.org and the National Brownfield Coalition)



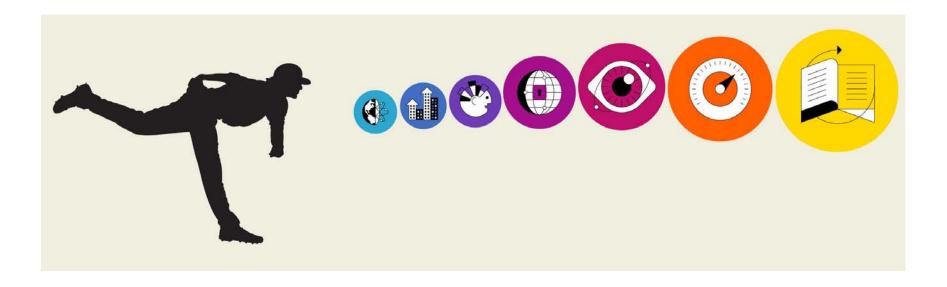
Make Opportunity Zones Work

- Get shovel-ready & investment-ready for Opportunity Funds
 - Opportunity Funds come at the right point in deal flow
 - See EPA guide on "Community Actions that Drive Brownfields Redevelopment" with 5-steps for stakeholder collaboration, creating a vision, removing barriers, engaging developers, and closing the deal
 - See EPA guide on "Leveraging Resources for Brownfield Revitalization"



Make Opportunity Zones Work

 Create a pitchbook and pitch website – competitive advantages, site advantages, redevelopment program, pro-forma, capital stack, secured backers – and a clear pitch on funding gap for OFund equity & ROI



Make Opportunity Zones Work

* Find the right Opportunity Fund investors

- See Novogradac Opportunity Zone lists www.novoco.com/resourcecenters/opportunity-zones-resourcecenter
- * Consider a single-assetOpportunity Fund



Thank you!



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