Opportunity Zone Investing

2017 Tax Cuts & Jobs Act

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INTEGRATED TAX CREDIT SOLUTIONS

MOXIE INVESTMENT FUNDS

FRAMEWORK ARCHITECTURE

TMS

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- Combined portfolio of $4 billion
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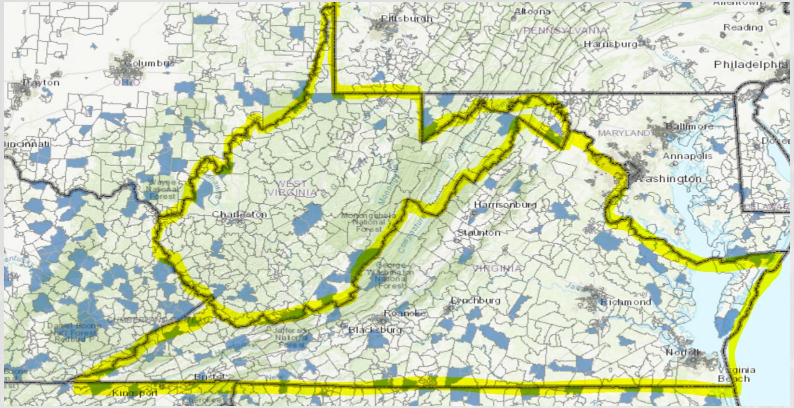
- Specializing in real estate tax credits

Introduction

- Qualified Opportunity Zones were added to the Internal Revenue Code by the 2017 Tax Cuts and Jobs Act (The "2017 Tax Act") by Code sections:
  - 1400Z-1 discusses designation of Opportunity Zones.



  - 1400Z-2 discusses how to invest capital gains into opportunity zones and receive significant tax benefits

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Who Can Benefit?

- Literally any US taxpayer with capital gains (net 1231 capital gains) can potentially benefit from this new tax incentive. This Includes:
    - Individuals or corporations looking to reinvest gains from sales of property in order to defer and reduce taxes;
    - Real estate developers and start-up companies located in an Opportunity Zone who are looking for equity investment; and
    - Real estate sponsors, syndicators and/or private equity funds looking to create Opportunity Funds and then make investments in Qualified Opportunity Zone Property, including investments in corporations, partnerships or direct investments in property.

3 Major Buckets of "Opportunity"

- A taxpayer who timely reinvests gain from a sale of property into a "Qualified Opportunity Fund" ("Fund") can enjoy the following tax benefits:
  - Bucket 1 - Deferral: Gain on a property sale that is invested in a Fund is deferred until the earlier of the date that the taxpayer sells its interest in the Fund or December 31, 2026.
  - Bucket 2 - Capital Gain Reduction: If the taxpayer invests in the Fund for at least 5 years, 10% of the original gain is excluded; if the investment lasts for at least 7 years, an additional 5% (for a total of 15%) of the original gain is excluded.
  - Bucket 3 - Appreciation Exclusion: If the taxpayer invests in the Qualified Opportunity Fund for at least 10 years, all appreciation in the new investment will be tax-free.

Bucket 1 – Deferral of Capital Gain

- Investor Sells an Investment or Property for a Capital Gain of $100
  - Reinvests the Capital Gain in a Qualified Opportunity Fund
- Capital Gain of $100 is deferred until the earlier of:
  - Date on when NEW investment is SOLD or Exchanged, or
  - December 31, 2026
- How much Gain is Recognized?
  - Lesser of the amount of gain excluded originally or the sales proceeds
- What does this mean?
  - Original Gain $100
  - Reinvestment $100
  - Sale in 2020 for $90
  - In 2020 your deferred gain of $100 is recognized as $90 gain

Bucket 2 – Reduction of Gain

- If New Investment is held for 5 years, the basis in the Investment is increased by 10%
- If New Investment is held for 7 years, your basis in the Investment is increased by 15%

This can result in the reduction of the original deferred gain

<u>Examples</u>:

1. Original reinvested gain $100 (12/31/2018)
   Sell in 2022 for $90
   Gain recognized $90 (no reduction of gain since not held for 5 or 7 years)

2. Original reinvested gain of $100 (12/31/2018)

   Sell on 1/1/2024 for $90 (5 years plus 1 day)

   Basis = $0

   Increase in Basis 10% x $100 = $10

   Sales Proceeds $90 (A)

   Adjusted Basis = <u>$10</u> (B)

   Resulting Gain $80 (A) – (B)

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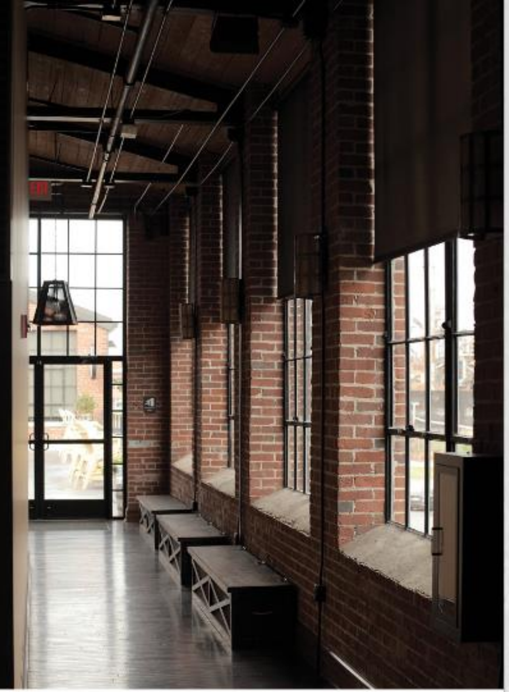

Bucket 3 – Permanent Exclusion of New Investment Acquisition Appreciation

- For Investments held by taxpayer for at least 10 years, the basis of such property = FMV at the time the investment is sold or exchanged for Qualifying Investments made between Now & December 31, 2028
- Example – <u>Investment in Fund is Held for 10 Years and Sold in 2028</u>

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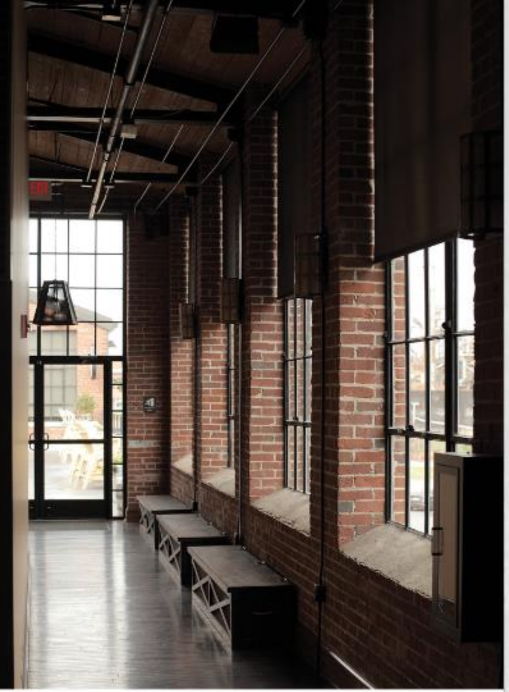

Example – Investment in Fund is Held for 10 Years and Sold in 2028

Opportunity Zone Investment Held for at least 10 Years		Ordinary Investment		Benefit
		Bucket 2 - Reduction of Gain		
Deferred Gain (taxed in 2026)	$100.00	Gain (taxed in 2018)	$100.00	
Basis Step-up	15.00	Basis Step-up	0.00	
Taxable Gain	85.00	Taxable Gain	100.00	
Tax (at 23.8%)	$20.23	Tax (at 23.8%)	$23.80	$3.57
Bucket 1 - Present Value of Deferral of Gain (assumed sale on 12/31/2018)				
Present value of tax @ 10% discount rate	$9.44		$20.23	$10.79
Bucket 3 - Permanent Exclusion of New Investment Appreciation				
Gain on Disposition of Investment in Fund	$100.00	Gain on Investment	$100.00	
Basis Step-Up	100.00	Basis Step-Up	0.00	
Taxable Gain on Disposition	0.00	Taxable Gain on Disposition	100.00	
Tax (at 23.8%)	$0.00	Tax (at 23.8%)	$23.80	$23.80
TOTAL BENEFITS				$38.16
BENEFITS AS A PERCENT OF ORIGINAL GAIN				38.16%

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What is a Qualified Opportunity Fund?

- A Corporation or Partnership organized for the purpose of investing in “Qualified Opportunity Zone Property” that holds at least 90% of its assets in QOZP
  - 90% determination is made at 6 month and year end measurement periods (test can be performed without taking into account investments received in preceding six months for investments held in cash or debt instruments of 18 months or less)
  - If a Opportunity Zone does not have at least 90% of its assets in QOZP, then fund assets (not invested in QOZP) are penalized at the same interest rate for underpayments of Federal Taxes under IRC Section 6621 – 6% starting in January – no penalty if failure is due to “reasonable cause”, which has not been well defined.
  - Calculation = Shortfall amount x underpayment rate divided by 12
  - This is reported on Form 8996

Qualified Opportunity Fund

- Capital gains via Cash or property at lower of tax basis or FMV
- No services allowed for contribution
- Net 1231 gains at 12/31

QOF

Qualified Opportunity Zone Property
90% - Valued by GAAP Audit or Cost
Average of 2 testing periods per year

STOCK (QUALIFIED OPPORTUNITY ZONE BUSINESS)

PARTNERSHIP INTEREST (QUALIFIED OPPORTUNITY ZONE BUSINESS)

QUALIFIED OPPORTUNITY ZONE BUSINESS PROPERTY

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Qualified Opportunity Zone Business (Stock or Partnership Interest)

- Purchased after December 31, 2017, via cash & qualifies for 90% of holding period as QOZB
    1. Substantially all (70%) tangible property **owned or leased** is a QOZBP
    2. 50% gross income is derived from active conduct of the trade or business in the QOZ
        A. 50% Gross Income Measured via
            1. At least 50% of hours worked were in a QOZ
            2. At least 50% of payroll dollars spent were for services performed in a QOZ
            3. Tangible property & Management Operations Functions are responsible for at least 50% of the gross income of the trade or business.
            4. If it can be demonstrated by Facts and Circumstances that at least 50% of gross income is derived from business in a QOZ.
    3. "**Substantial portion" 40% of intangible property is used** in active conduct of the trade or business in the OZ (ex. Franchise Fee)
    4. < 5% of the average of the aggregate unadjusted basis is attributable to Nonqualified Financial Property ("NQFP") – Debt, Stock, Non –Qualifying Partnership Interest, LESS reasonable Working Capital, ordinary accounts receivable.
    5. No Sin Businesses – Golf Course, Country Club, Massage, Hot Tub/Suntan Facility, Race Track/Gambling, off premises alcohol seller.

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Qualified Opportunity Zone Business (Stock or Partnership Interest)

- Working Capital safe harbor – 3 requirements:
  1. Designated in writing for acquisition, construction and/or substantial improvement of tangible property.
  2. A written schedule for the expenditure of working capital assets to be spent within 31 months. Delays due to government actions or inactions does not cause a failure of the safe harbor.
  3. Actual use of the working capital that is consistent with 1 and 2.
- Delays attributable to waiting for governmental action, the application for which is completed during 31 month period do not violate 31 month period.
- Allows for multiple 31 month-working capital safe harbors
- The written designation for planned use of working capital now includes the development of a trade or business in the qualified opportunity zone as well as acquisition, construction, and/or substantial improvement of tangible property.

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QOZB Structure Diagram

Taxpayer

↓ Investment

Qualified Opportunity Fund

QOF must hold at least 90% of its assets in QOZP (i.e. QOZ stock, QOZ partnership interest or QOZBP)

↓ Investment

QOZB Partnership or Stock

Substantially all (at least 70%, per proposed regulations) of the tangible property owned or leased by the QOZB must be QOZBP.

Qualified Opportunity Zone Business Property

- Tangible property used in business
    1. Property acquired by QOF via non-related party purchase after December 31, 2017,
    2. Original use of such property in the QOZ commences with the QOF or the QOF Substantially Improves the property AND,
        1. Original Use—Person or prior person first places the property in service in the QOZ for depreciation or amortization
        2. 5 year vacancy requirement for abandoned or vacant buildings
    3. During “substantially all” 90% of the QOF’s holding period for such property, “substantially all” 70% of the use of such property is in a QOZ.
        - Inventory in transit does not break use test
    4. Leased property now qualified

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Leased Property Rules

Leased property for QOZBP now qualifies when:

- Acquired under a lease entered into after 12/31/2017
- Substantially all (70%) of all the use of the leased tangible property must be in a QOZ during 90% of the lease term.
- No original use requirement on improvements made by a lessee
- No substantial improvement requirement
- Can be leased from related party if:
    - Market rate lease terms exist
    - No prepayment for rent exists greater than 12 months of rent
    - Leased tangible personal property only qualifies if:
        - Lessee becomes the owner of the tangible property of which has value not less than the value of the leased personal property(within 30 months)
        - Substantial overlap in zones

Valuation of Leased Property for 90% Test

- Financial statement method(GAAP)
- Alternative valuation method
  - Net present value of lease payments
  - Discount rate under 1274(d)(1) prescribed
    - Calculated once at the time lease is entered into

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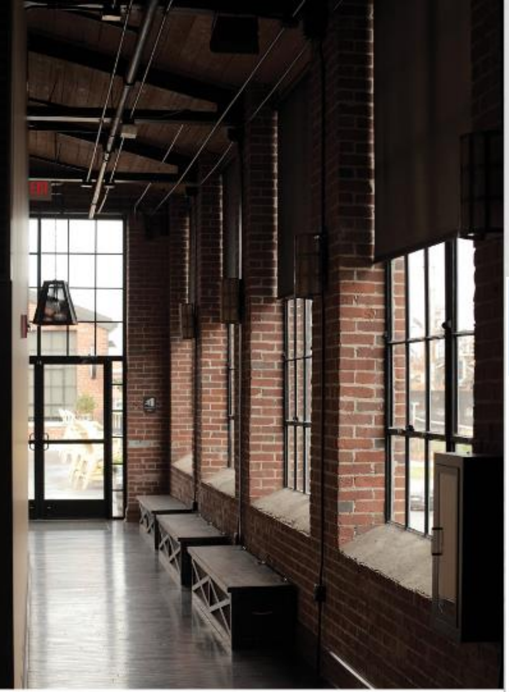
Compare QOZB with QOZBP

QOF owns an equity interest in a corporation or partnership operating a QOZB:	QOF directly own QOZBP and operates business:
70/30 test relevant to QOZBP	90/10 test (if QOF does not hold interests in subsidiaries, 90% of its assets must be QOZBP)
Working Capital Safe Harbor applies to allow unlimited amount of cash as long as entity substantially complies with a written plan of deployment for acquisition, construction and/or rehabilitation within 31 months	No working capital safe harbor; absent further guidance, all cash would be counted toward the 10% of assets that can be non-QOZBP
50% gross income from active conduct of trade or business (deemed to be met during construction/rehabilitation under working capital safe harbor)	No gross income requirement from active conduct standard



Compare QOZB with QOZBP (continued)

QOF owns an equity interest in a corporation or partnership operating a QOZB:	QOF directly own QOZBP and operates business:
Can own an unlimited amount of Intangible Property as long as a “substantial portion” (40%) is used in the active conduct of a trade or business (deemed to be met during construction/rehabilitation under working capital safe harbor)	All Intangible Property counts toward the 10% of assets that can be non-QOZBP (QOZBP only calls for tangible property)
No sin businesses allowed	No prohibition on sin businesses
A QOZB is able to lease property and the statute contemplates that this property could qualify as QOZBP, but it is not clear how the QOZBP requirements are applied to leased property	No specific reference to the lease of property directly by a QOF
Statute provides a 5-year grace period for characterization of property held by a QOZB as QOZBP	As currently written, this 5-year grace period does not apply to QOZBP held directly by a QOF

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Proposed Regulations Issued October 19, 2018

- Provide a safe harbor that allows an O Zone Business to hold funds for up to 31 months for the acquisition, construction, or improvement of real and other tangible property
- Calculate the substantial improvement test by reference to the basis of the building, excluding the basis of the land
- Require that an O Zone Business have only 70% of its assets invested in O Zone Business Property
- Allow gains recognized by a partnership to be invested in an O Fund by either the partnership or its partners
- Allow all of the benefits of the program to be claimed by taxpayers through December 31, 2047, despite the earlier expiration of the O Zone designations
- Allow an O Fund to specify the first year and month in which it will be classified as an O Fund
- Limit the eligible gains that can be deferred under the program to capital gains, arguably contrary to the statute

Additional Guidance Provided in Regulations

- Triggering events for income inclusion
- Distributions from a QOF
  - Are inclusion events if the investor has no basis
  - Results in acceleration of the original deferred capital gain to the extent there is no basis
- Reasonable period defined for re-investment or proceeds (12 months)
- No substantial improvement requirement for land, but the land must be used in active conduct of a trade or business (speculative land purchased to hold does not qualify) to be considered QOZBP
- Investor that holds its QOF interest for 10 years can elect to exclude QOF K-1 capital gain (from a QOZB's sale of QOZBP) from gross income

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OZ Critical Dates

- QOZBP AND QOZB Must be acquired after 12/31/2017
- QOZ Investment must be made by 12/31/2019 in order to get 15% reduction in deferred gain if held until 12/31/2026
- QOZ Investment must be made by 12/31/2021 in order to get 10% reduction in deferred gain if held until 12/31/2026
- Deferred gain must be recognized no later than 12/31/2026
- Qualified Opportunity Zones expire 12/31/2028, no more QOZ investments can be made after this
- Sale of QOZ Investment must be made by 12/31/2047

Example Applications of the Opportunity Zone Program:
Rock Hill, South Carolina

Map: Opportunity Zones – Rock Hill, SC

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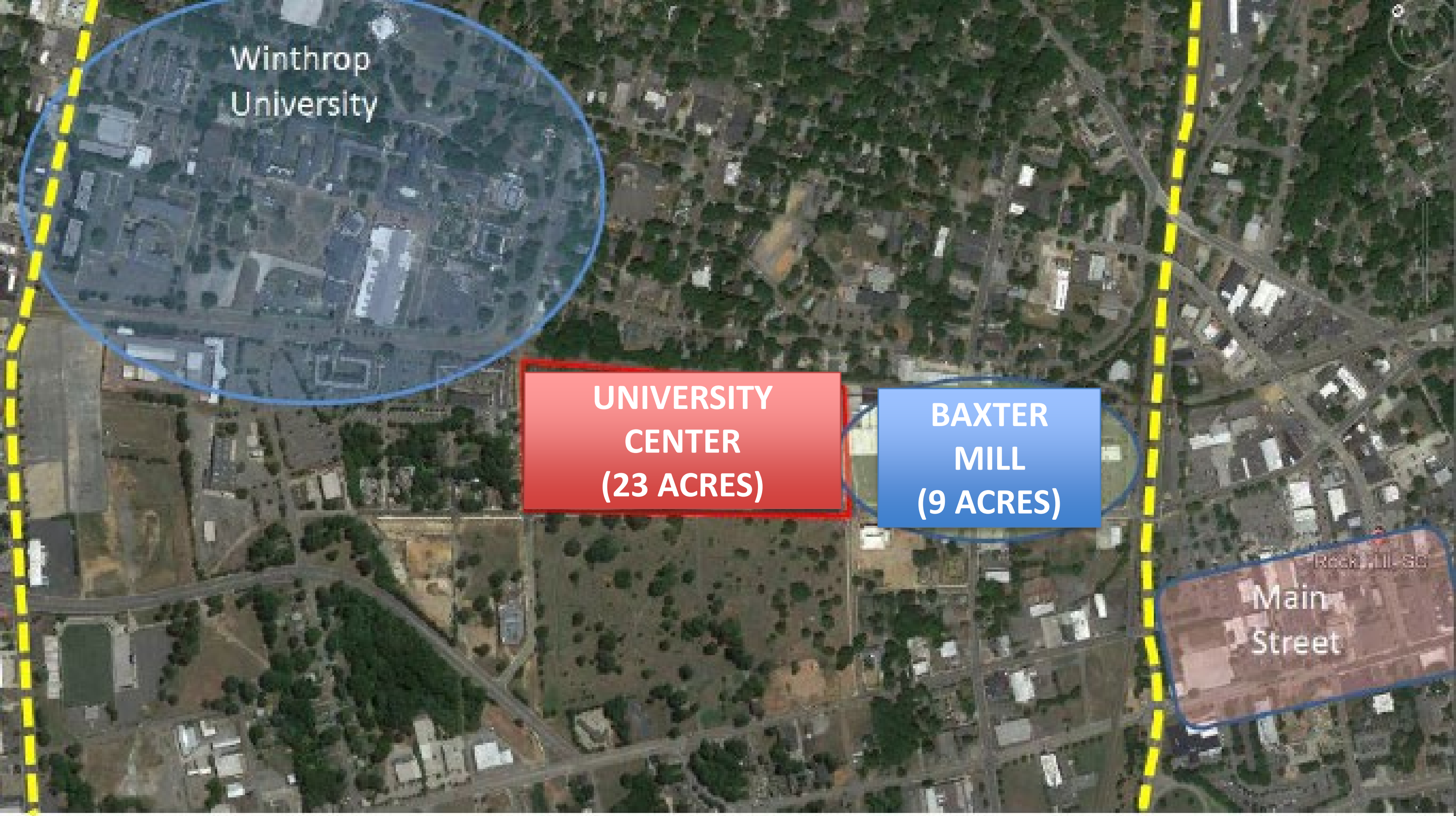

Winthrop
University
UNIVERSITY
CENTER
(23 ACRES)
BAXTER
MILL
(9 ACRES)
Main
Street

UNIVERSITY CENTER: CURRENT PROGRESS

Lowenstein Building

- $46,000,000 - 225,000 SF Class A Mixed-Use Office Building
- Currently 70% Lease by National and Local Tenants
- Expected Lease-Up by 2019

Rock Hill Arena

- $25,000,0000 - Mixed-Use Arena Venue
- Largest Arena in the State of South Carolina
- 8 Basketball Courts / 16 Volleyball Courts / Walking Tract
- Expected to Accommodate over 5,000 Visitors Each Weekend

Parking Deck K

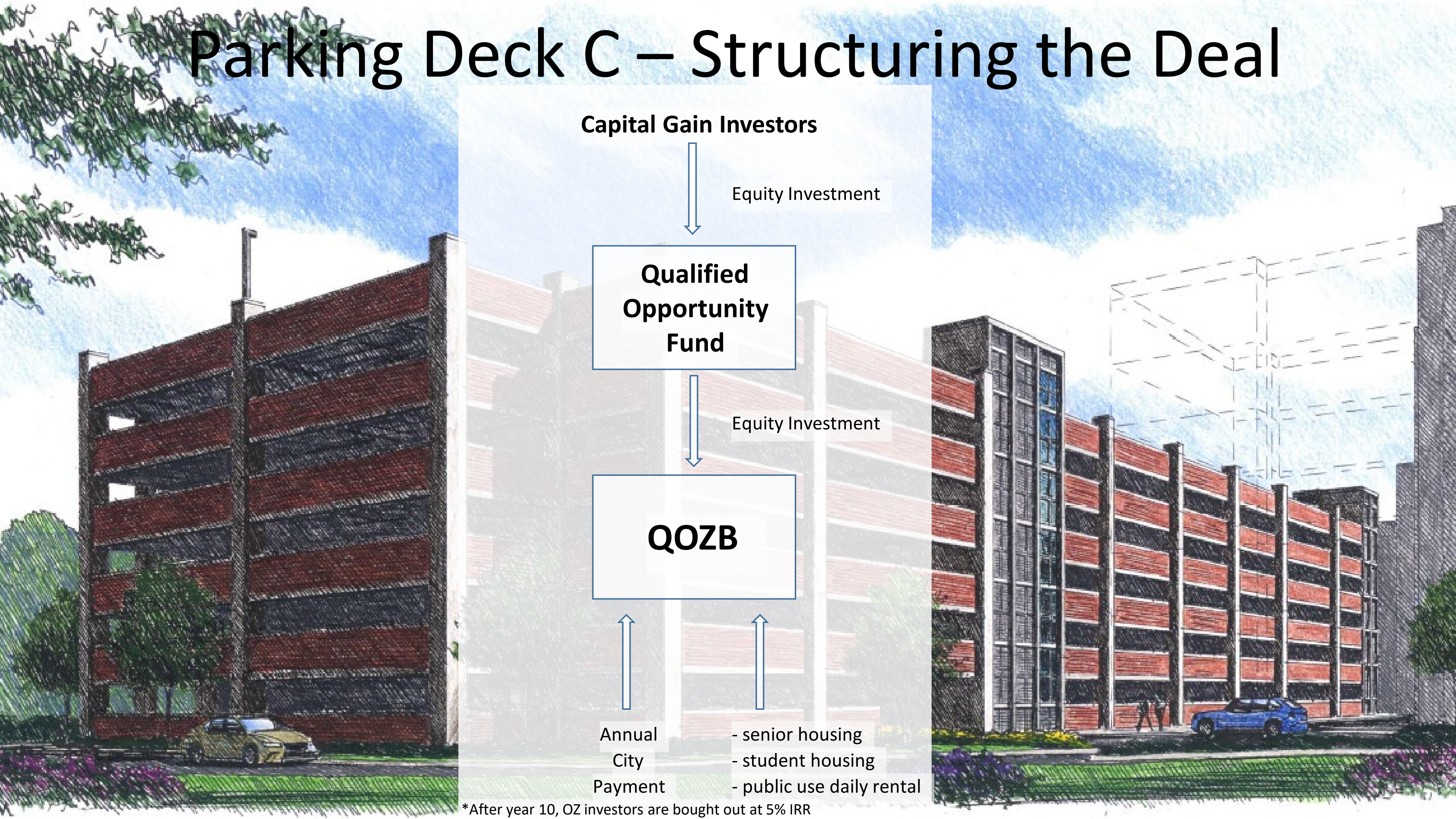
- $10,000,000 – 5-Story Parking Deck
- 750+ Stalls Serving the University Center Site
- Second Infrastructure Phase of Four Phases

UNIVERSITY CENTER: FUTURE OPPORTUNITY ZONE EXAMPLES

Parking Deck C

- $6,500,000 – 433 Stall Parking Deck
- Construction Expected to Commence in 2019
- Phase Three of Four for Infrastructure Investment

Parking Deck C – Structuring the Deal



Capital Gain Investors

↓ Equity Investment

Qualified Opportunity Fund

↓ Equity Investment

QOZB

↑ Annual City Payment

↑ - senior housing
- student housing
- public use daily rental

*After year 10, OZ investors are bought out at 5% IRR

Parking Deck C – Investment Schedule

Investment in Project	$ 6,500,000	
Annual Return	5.0%	based on Investment in Project
Years until Put	10	
Put Price	$ 10,590,000	(rounded up) based on Investment in Project
Ordinary Tax Rate	40.00%	
LT Capital Gains Tax Rate	23.50%	

Investor		2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	Total	
Cash Available (assumed capital gains)		6,831,579												
Investment in QOF		(6,831,579)												
Distributions		-	-	-	-	-	-	-	-	-	-	-		
Put Payment												10,248,421		
Cost/Benefit		(6,831,579)	-	-	-	-	-	-	-	-	-	10,248,421	3,416,842	4.14% cash-on-cash IRR
OZone Deferral	23.5%	1,605,421	-	-	-	-	-	-	(1,364,608)					
Cost/Benefits w/ OZone Deferral		(5,226,158)	-	-	-	-	-	-	(1,364,608)	-	-	10,248,421	3,657,655	5.18% IRR w/ OZone

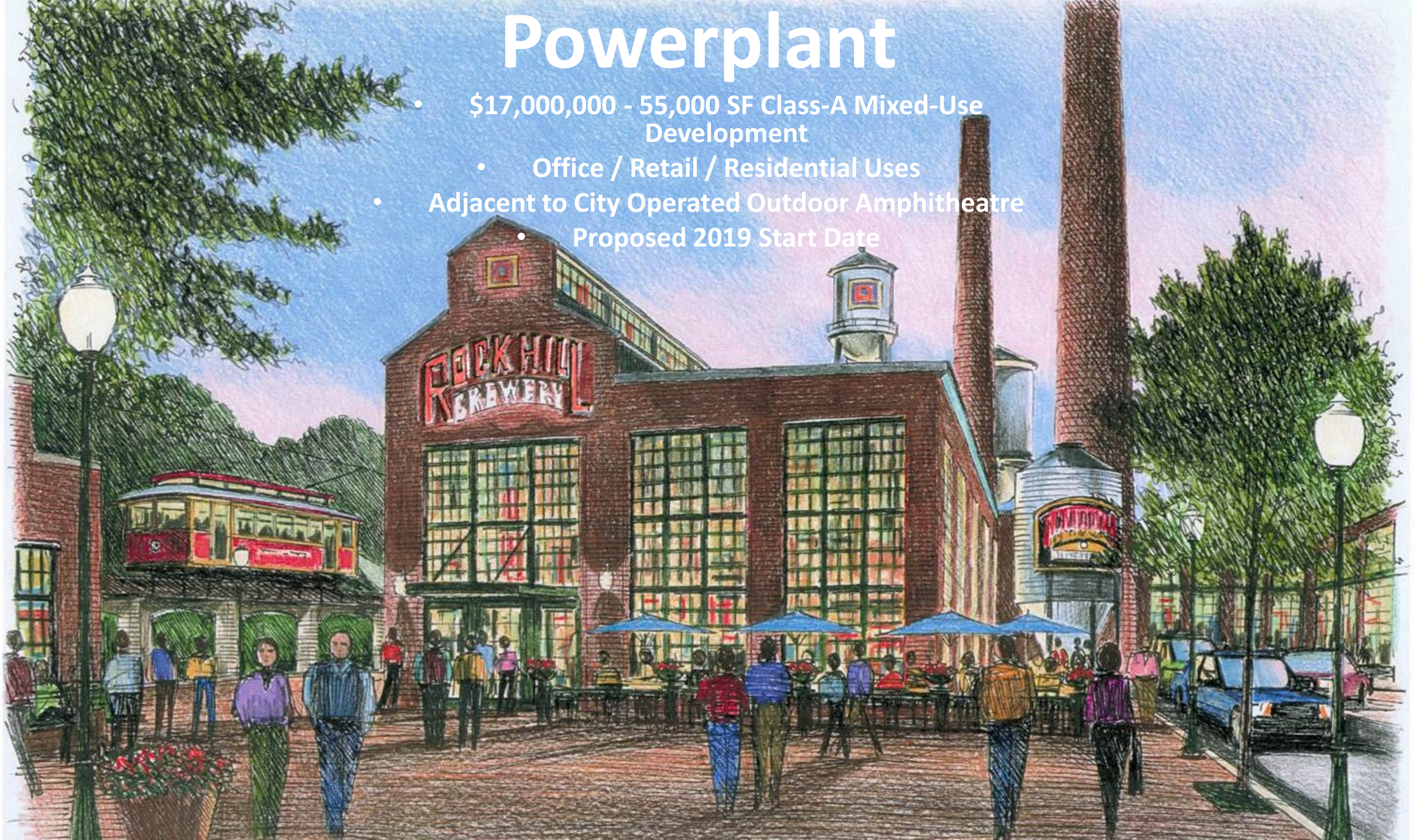
Project	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	Total
QOF Contribution	6,500,000											
Distributions to QOF	-	-	-	-	-	-	-	-	-	-	-	

University Center Hotel

- **$22,300,000 - 110 Key Cambria Suites**
- **Construction Period: Q2 2019 – Q2 2020**
- **Meeting & Rooftop Space**
- **Serving both Leisure & Business Travelers**
- **Up to $3,700,000 in Opportunity Zone Equity**
- **Potential Investor IRR with Full Opportunity Zone Benefit is 11-16% (Depending on How Distributions are Treated Under Finalized Regulations**

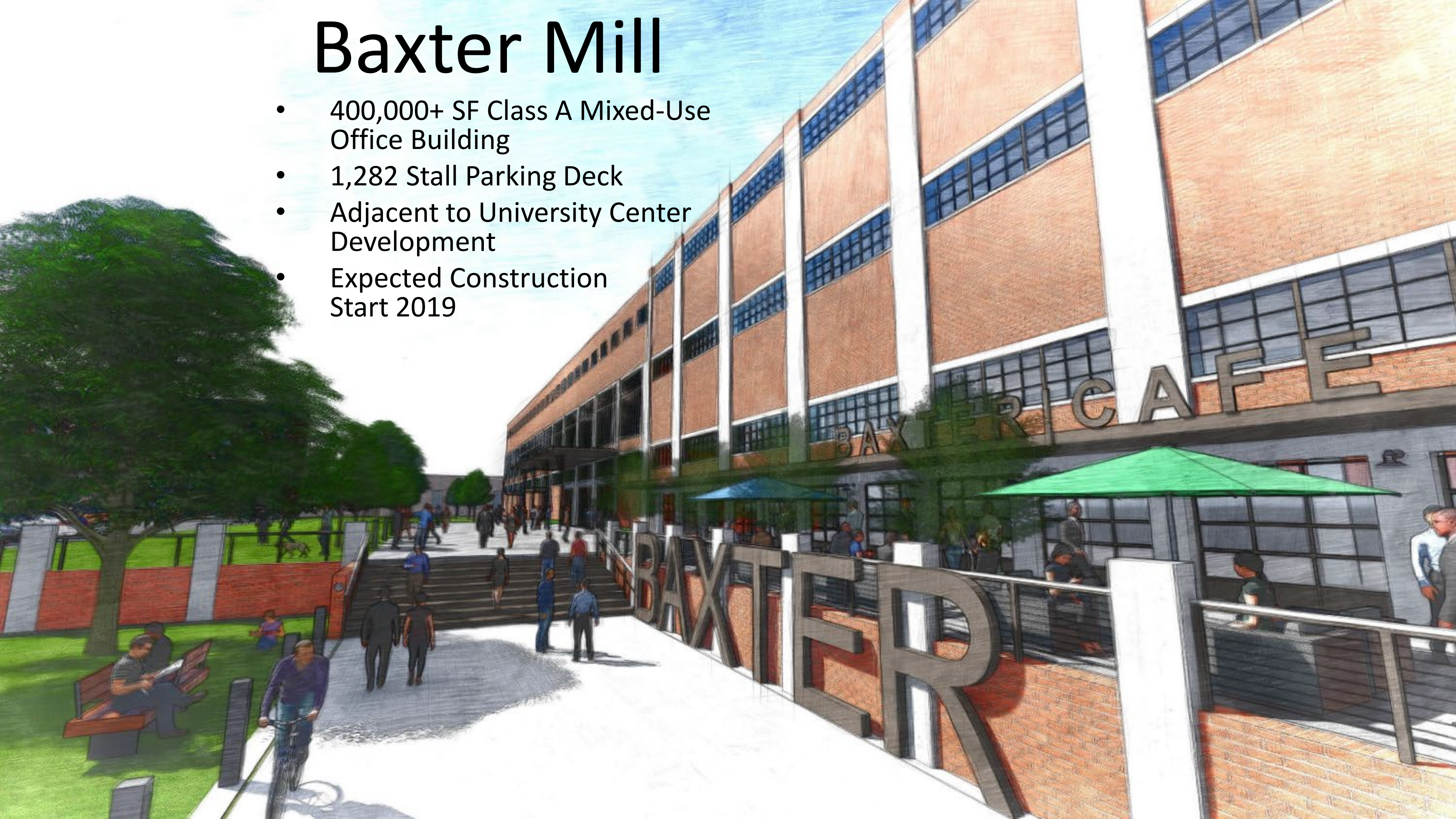
Powerplant

- $17,000,000 - 55,000 SF Class-A Mixed-Use Development
- Office / Retail / Residential Uses
- Adjacent to City Operated Outdoor Amphitheatre
- Proposed 2019 Start Date



Baxter Mill

- 400,000+ SF Class A Mixed-Use Office Building
- 1,282 Stall Parking Deck
- Adjacent to University Center Development
- Expected Construction Start 2019



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