Opportunity Zones

What Connecticut's Independent Colleges Need to Know to Foster Collaboration and Investment

Connecticut Consortium of Independent Colleges

Pullman & Comley, LLC
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Overview of Opportunity Zone Program

- Encourage long-term private capital investment and job creation in Opportunity Zones

- Opportunity Zones (designated by census tract) were nominated by state governors and approved by US Treasury
  - Economically Distressed Communities
  - OZ Designation currently expires on December 31, 2028

Overview of Opportunity Zone Program

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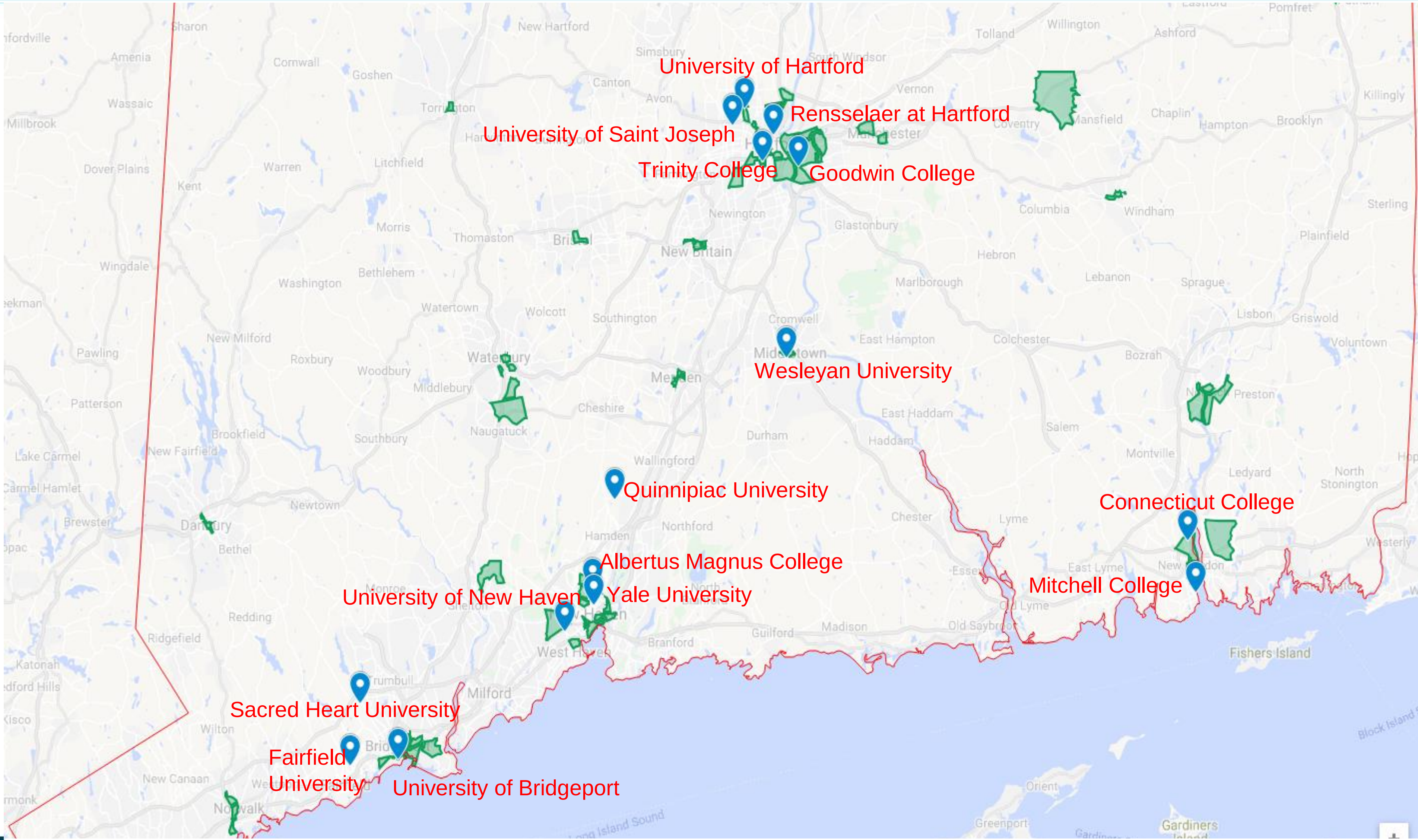
Location of Connecticut Opportunity Zones

- 72 Opportunity Zones were established in Connecticut

County	Opportunity Zones
Hartford County	23
New Haven County	19
Fairfield County	17
New London County	7
Middlesex County	2
Windham County	2
Litchfield County	1
Tolland County	1
CT Total	72

- Each CCIC Member is 10 miles or less from an Opportunity Zone

OZ Locations to CCIC Members



Overview of Opportunity Zone Program

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- Significant tax benefits for capital gains invested in Opportunity Zones <u>through a Qualified Opportunity Fund</u>
  - capital gains tax deferral for up to 7 years through December 31, 2026
  - capital gain tax forgiveness - 5 year hold (10% increase in basis) and 7 year hold (additional 5% increase in basis)
  - **exclusion of capital gains tax on QOF investment if held for 10 years or more**

Overview of Opportunity Zone Program

Opportunities in Opportunity Zones for non-profit universities and colleges

- Attraction of investors to invest in partnerships with institutions to leverage capital investments in Opportunity Zones where universities and colleges are located or adjacent to such institutions
- Development of student housing, recreational facilities, ancillary service facilities to be utilized by universities and colleges
- Development of retail, parking, technology and incubator centers, etc. to improve quality of life in neighborhoods adjacent to institutions
- Investment in businesses in Opportunity Zones to provide job opportunities and quality of life in university and college neighborhoods

Recent P3 Projects in Higher Education

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Undergrad Housing
Illinois State
Lake Superior State
Purdue Univ.
Texas Woman's Univ.
UC – Davis, Santa Cruz, Riverside
Univ. of Illinois Chicago

Energy/Utilities
Dartmouth
Fresno State
Louisiana State
UMD – College Park
Univ. of Illinois
Univ. of Iowa
Wayne State

Facilities/Mixed Use Development
Georgia State Univ.
Kent State
Univ. of Hawaii
Univ. of Illinois
Univ. of Kansas

Grad Housing
Notre Dame
Purdue Univ.

Parking
E. Michigan Univ.
Kent State

Hotels
Metropolitan State Univ.
UMD – College Park

Sports Arena
UConn
UT - Austin

Investing in a Qualified Opportunity Fund

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- Post-2017 capital gain resulting from sale or lease of property to an unrelated person
- No limit on the amount of capital gain that can be invested in Qualified Opportunity Fund (QOF)
- 180 day investment window for capital gains
- Investor must hold an equity interest in the QOF
- Permitted sale and reinvestment of QOF interest
  - Only for sales of entire original QOF investment
  - 180 days from sale to reinvest in another QOF investment

Investing in a Qualified Opportunity Fund

- QOF Investors can be individuals, C corporations, S corporations, partnerships, trusts and REITs

- Pass-through entities can defer capital gain tax at the entity level or at the owner level

- Investors will file IRS Form 8949 with annual tax return for tax deferrals under the Opportunity Zone Program

Opportunity Zone Tax Benefit Example

- On January 1, 2019, a taxpayer recognizes $1,000,000 of capital gain from the sale of stock.
- On April 1, 2019, the taxpayer reinvests that $1,000,000 in a QOF. The taxpayer is not required to include that gain in its 2019 taxable year.
- On December 31, 2026, the taxpayer (who has not sold any portion of its QOF interest) would include in its gross income $850,000 of the 2019 deferred gain (85% of $1,000,000).
- If the taxpayer sells its QOF interest on July 1, 2029 (held for more than 10 years) for $2,500,000, the $1,500,000 of capital gain would be exempt from tax.

Qualified Opportunity Funds (QOF)

- QOF must be an entity classified as a corporation or partnership for federal income tax purposes (multi-member LLCs are okay)

- QOF self-certifies its status to IRS pursuant to Form 8996, Qualified Opportunity Fund

- At least 90% of assets of a QOF must be "Qualified Opportunity Zone Property"
    - Semi-annual Testing Dates
    - Initial 6-month investment period (April 2019 Proposed Regs.)

Qualified Opportunity Zone Property

- Must be an <u>equity</u> investment (acquired by QOF after December 31, 2017) from an <u>unrelated seller</u>
- **Qualified Opportunity Zone Property** includes:
  – <u>Qualified Opportunity Zone Business Property</u> includes tangible property used in the trade or business of the QOF
  – <u>Qualified Opportunity Zone Stock</u> – equity interest in a business corporation (but not a non-profit corporation) that is a qualified opportunity zone business
  – <u>Qualified Opportunity Zone Partnership Interest</u> – partnership or limited liability company taxed as a partnership (but not a limited liability company that is disregarded for tax purposes) that is a qualified opportunity zone business

Qualified Opportunity Zone Business

A qualified opportunity zone business is a <u>trade or business</u> in which:

- "substantially all" (at least 70 percent) of the tangible assets are "<u>qualified opportunity zone business property</u>"
- At least 50 percent of its gross income is derived from the <u>active</u> conduct of such trade or business <u>in an Opportunity Zone</u> (see April 2019 Proposed Regs.)
- A substantial portion (*at least 40 percent*) of its intangible property is used in the active conduct of such trade or business in an Opportunity Zone
- Such entity business is not a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverage for consumption off premises (only applies to indirect investments in a QOZB)

Qualified Opportunity Zone Business (continued)

- Excluding working capital safe harbor described below, less than 5% of the entity's property is in the form of nonqualified financial property (*e.g.*, cash, cash equivalents, and short-term debt)

- <u>Working Capital Safe Harbor (see April 2019 Prop. Regs.)</u>:
  - if construction/rehab completed within 31 months, and
  - work is done pursuant to a written plan, then
  - cash held is <u>not</u> nonqualified financial property, and
  - Project is considered engaged in active trade or business during construction period

Qualified Opportunity Zone Business Property

<u>Qualified Opportunity Zone Business Property </u>is tangible property used in a trade or business of the QOF/QOZB if:

- Such property was acquired by purchase after December 31, 2017 from an "unrelated party"
- The "original use" of such property in the Opportunity Zone commences with the QOF/QOZB or the QOF/QOZB "<u>substantially improves</u>" the property
  - – 30-month timeframe for substantial improvement
  - – Asset by asset test
  - – Double the basis (careful about land improvements & demo)
  - – Land doesn't count (Rev. Rul. 2018-29)
- During "substantially all" of the QOF's holding period, "substantially all" of the use of such property was in an Opportunity Zone

Opportunity Zone QOZB Example

- O-Fund formed on April 1, 2019. O-Fund has $10 million, invests $9 million in QOZB on April 15, 2019.
- On October 1, 2019 and December 31, 2019, QOZB assets consist of a $7 million new building in Opportunity Zone and $2 million building <u>not</u> in Opportunity Zone.
- 77% (7/9) of QOZB assets are good. QOZB meets the 70% test, so entire $9 million qualifies as QOZB Property.
- 90% (9/10) of O-fund assets qualify. O-Fund meets the 90% test.

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