



HUD'S OFFICE OF NATIVE AMERICAN PROGRAMS

Opportunity Zones Webinar Series

Opportunity Zones 101 for Tribes

February 13, 2020

Conference call dial-in 888-251-2949; Access Code: 5556669#



Welcome



Heidi J. Frechette serves as the Deputy Assistant Secretary for HUD's Office of Native American Programs. In her capacity, she manages a number of programs dedicated to Native American communities – including one that is the largest source of housing assistance – and leads a team of professionals in Washington, D.C., and eight other offices located throughout the country.



Our Presenters

Enterprise was founded in 1982 as one of America's original social enterprises, to work with partners in communities nationwide. Enterprise brings together the people and resources to create affordable housing in strong neighborhoods. Within Enterprise are entities that help communities develop programs, lend funds, finance development, and manage and build affordable housing.

Patrick Jordan serves as vice president of Enterprise Advisors, the mission-based consultancy for Enterprise Community Partners.

Russell Kaney serves as director of programs for the Rural and Native American Initiative (RNAI) at Enterprise Community Partners.

Mike Tedesco serves as the Executive Director of the Spokane Tribe .

Nothing in this primer is intended, nor should it be relied upon, as legal advice. Rather, it is meant to better equip tribal governments to work with legal and tax professionals they retain to harness the tax benefits of creating or expanding tribal businesses in such areas.



Overview: Background

- Enacted as part of the 2017 Tax Cuts and Jobs Act
- Opportunity Zones are specially-designated areas in low-income communities across the nation.
- New tax incentive intended to:
 - Attract long-term private investment
 - Spur economic growth
- Chance to develop strategies and align policies that harness the tax incentive, while serving the needs of residents



Overview: Designations

- Opportunity Zones are defined by census tract – more than 8,700 nationwide, including 362 that overlap with Tribal lands.
- In early 2018, Governors nominated the census tracts to be designated as Opportunity Zones in each state.
- In June 2018, U.S. Treasury approved Opportunity Zones in all 50 states, five territories, and Washington, D.C.



Overview: Eligibility

- **Low-Income Communities**
 - Section 45D(e) - New Market Tax Credit program
 - Poverty Rate
 - Median Family Income Comparison
- **Tracts Contiguous with Low-Income Communities**
 - Contiguity
 - Median Family Income Comparison



Overview: How Tracts were Chosen

- Each state could designate up to 25% of eligible census tracts
 - Based on Low-Income Community definition
 - Exception for states with less than 100 tracts
- Exemption: Up to 5% of the tracts designated could be contiguous instead of Low-Income Community tracts
- Governors submitted nominations by March/April of 2018
- U.S. Treasury approved designations by June 2018.



Overview: Finding Designated Tracts

▼ < it Employment Occupancy Cost Burdened Transit NMI (2) Filter Zones Continental Map Alaska Hawaii Puerto Rico Communities >

Opportunity Zone Designation
Designated Opportunity Zones

Opportunity Zone Explorer

Opportunity Zones Selected
8,689

Location Filters

Select State
(All)

County
(All)

Rural or Urban
(All)

Intersects Tribal Tract(s)
(All)

Federal Place-Based Program Filters

Includes NMTC Investments(s)
(All)

Intersects Promise Zones(s)
(All)

Includes Section 538 project(s)
(All)

Includes CDBG Project(s)
(All)

Includes Sect. 514 or 515 project(s)
(All)

Intersects Choice Neighborhoods(s)
(All)

Includes Empowerment Zones(s)
(All)

Qualified Census Tract
(All)

<https://www.enterprisecommunity.org/opportunity360/opportunity-zone-eligibility-tool>

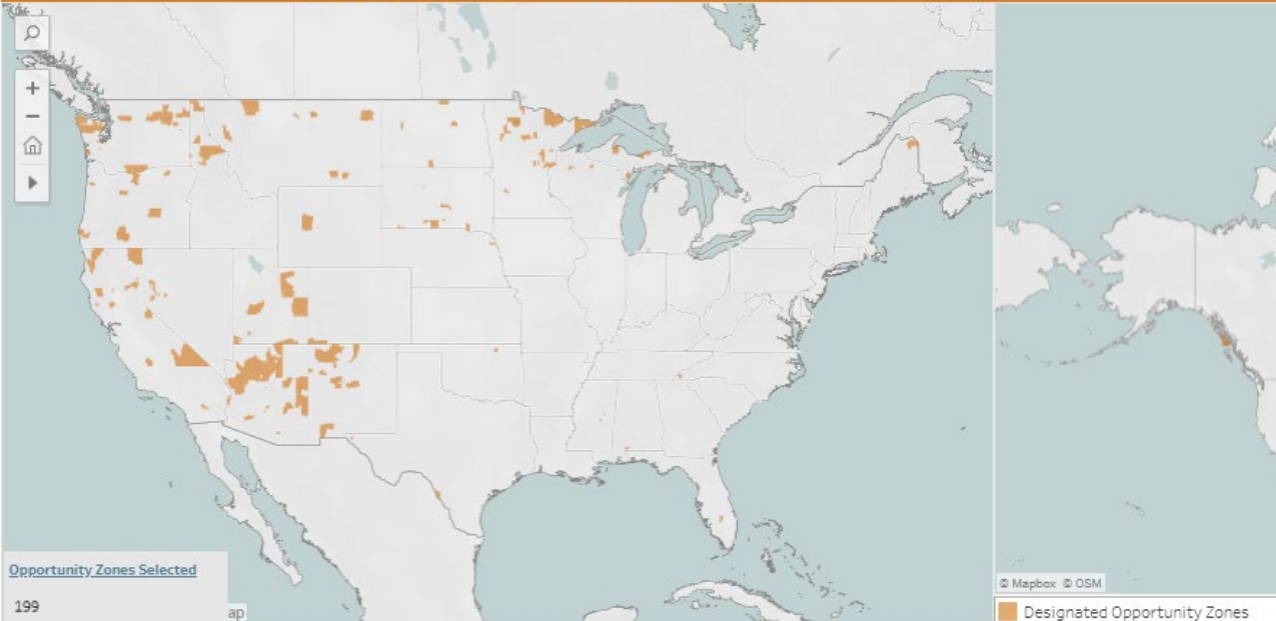


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Opportunity Zone Designation
Designated Opportunity Zones

Opportunity Zone Explorer



Opportunity Zones Selected
199

Mapbox OSMDesignated Opportunity Zones

Location Filters

Select State
(All)

County
(All)

Rural or Urban
(All)

Intersects Tribal Tract(s)
Yes

Federal Place-Based Program Filters

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(All)

Intersects Promise Zones(s)
(All)

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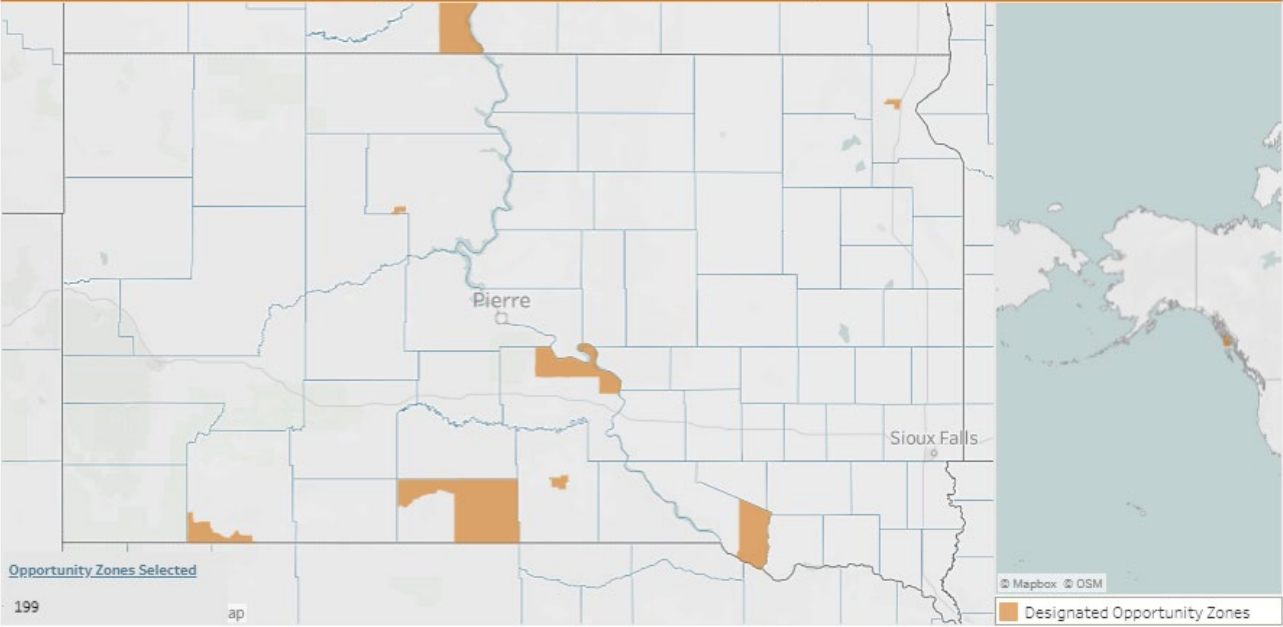


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Opportunity Zone Designation
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Opportunity Zone Explorer



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(All)

Includes Empowerment Zones(s)
(All)

Qualified Census Tract
(All)

<https://www.enterprisecommunity.org/opportunity360/opportunity-zone-eligibility-tool>



Terminology

- Opportunity Zone Census Tract
- Qualified Opportunity Fund
- Investor
- Capital Gains Taxes
- Temporary Deferral
- Step up in Basis Points
- Tax Free Gains



What does this mean to you and your tribe?

- Opportunity Zone Census tract
 - 10-year designation
 - 30% of all eligible Tribal tracts were designated
- Qualified Opportunity Fund (QOF)
 - Investment vehicle, established as a partnership or corporation
 - Opportunity for outside investors to invest in your project
 - Funds must self-certify on IRS Form 8996
- State involvement
 - Each state has an office that oversees OZ's and provides incentives, education, support, etc.



What does this mean to you and your tribe? (cont)

- Capital Gains Taxes
 - *Capital gain* is profit from sale of an asset
 - Flexible application to OZs under IRS regulations for reinvestment made within 6 months
- Example:
 - Investor purchases \$60,000 in stock.
 - Investor sells the stock for \$100,000, earning a \$40,000 in capital gains.
 - \$40,000 can be reinvested in an Opportunity Fund to realize tax benefit.



Overview: Tax Benefits

- **Benefit 1: Temporary Deferral of Capital Gains Taxes** – investment in a qualified fund delays payment of capital gains until they exit the fund or December 31, 2026, whichever comes first.
- **Benefit 2: Step Up in Basis** – Investments held for 5 years will be taxed at reduced rates – 90% (10% basis increase); and 85% for investments held at least 7 years (15% basis increase).
- **Benefit 3: Tax-Free Gains After Year 10** – for investments held for 10 years, capital gains achieved by the investment in the Opportunity Fund will not be taxed.



Overview: Timing and Business Qualifications

- Opportunity Funds themselves must deploy capital quickly into projects, properties, or companies in designated Opportunity Zones.
- Opportunity Zone businesses must meet regulatory requirements regarding their tangible property, and their gross income must be derived by business activity.
- Businesses that do not qualify:
 - Private golf courses and country clubs
 - Massage parlors, suntan facilities, and hot tub facilities
 - Race tracks and other facilities used for gambling
 - If principal business is sale of alcohol for off-site consumption.



Overview: Business Property and Indian Trust Land

- Opportunity Zone business property must meet three requirements on timing of acquisition and use.
- Indian trust land qualifies as Opportunity Zone business property, if:
 - Lease begins after December 31, 2017, and
 - Substantially all of the use of the leased property is in an Opportunity Zone during substantially all of the period for which the business leases the property.



Opportunity Zones benefits for Tribal Communities

- Many Tribal communities have assets they can use to support Opportunity Zone investments, such as land, plans, and limited zoning requirements.
- Investments can support expansion of existing or creation of new businesses
- Investments can support development and redevelopment of real property
- There is no limit on the amount on investment that can be made in an Opportunity Fund.



Implementation: Planning in Opportunity Zones

- **Consistent with HUD's [Community Toolkit](#) for Opportunity Zones, there are steps you can take to plan for your projects:**
 - **Understand** the current environment, including assets, needs, opportunities, and potential partners
 - **Align** community assets and resources to help steer investment toward your economic development goals
 - **Partner** with aligned organizations to support equitable and inclusive opportunities



Implementation: Understand

- **Understand** the current environment, including assets, needs, opportunities, and potential partners
 - Assess housing needs
 - Conduct an assessment of commercial market conditions
 - Identify key economic growth drivers
 - Conduct workforce analysis to understand needs and opportunities
 - Understand investor priorities and interests



Implementation: Align

- **Align** assets and resources to steer market investment toward community economic development
 - Deploy underutilized land and property
 - Align plans for capital investments in local infrastructure
 - Align and leverage financial resources, including:
 - state funding and incentives
 - local community development resources
 - philanthropic resources
 - federal resources
 - private equity



Implementation: Partner

- **Partner** with aligned organizations to support equitable and inclusive opportunities
 - Identify and establish partnerships with stakeholder organizations, including:
 - Federal, state, and local government agencies
 - Nonprofits and community organizations
 - Anchor institutions, such as colleges and medical centers
 - Local industry

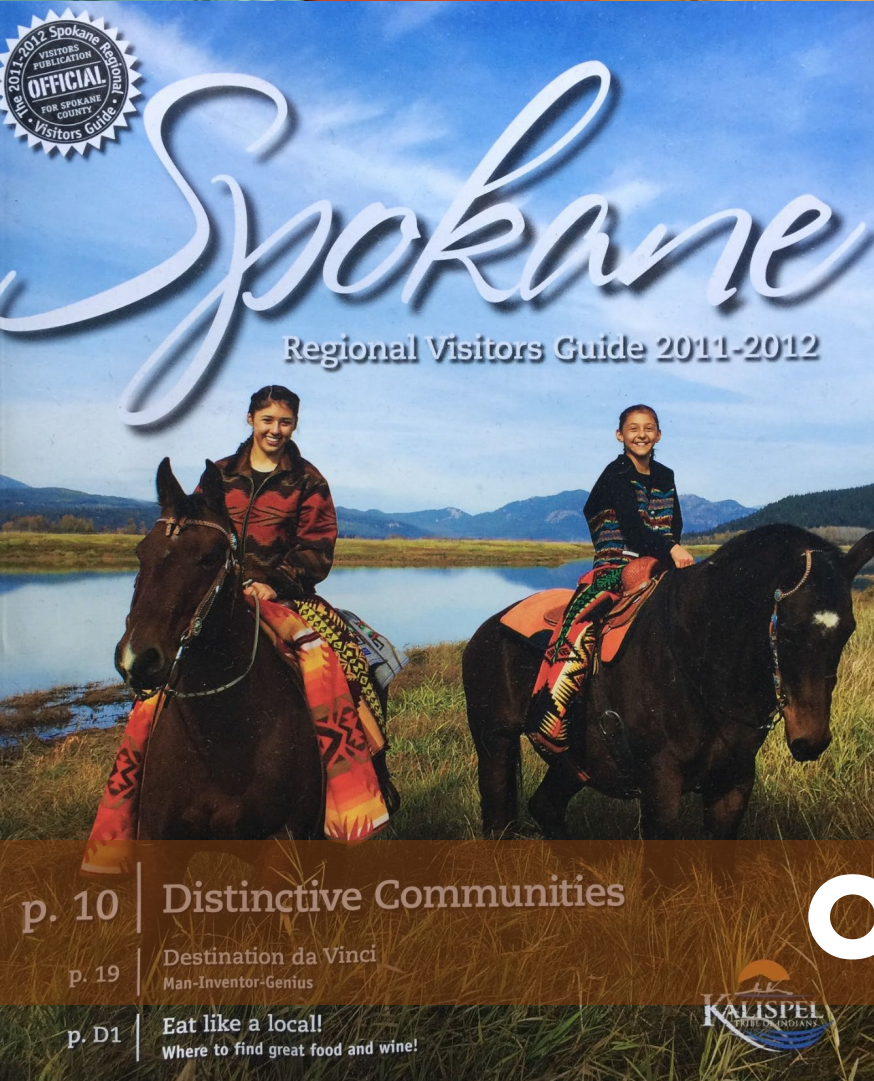


Implementation: Project Development

- As you identify clarity on specific projects, develop a project overview or “pitch deck”
- In vetting potential investors, request the term sheet for their Qualified Opportunity Fund
- Use the term sheets to identify which fund(s) match the financial terms and expected rates of return for your project.
- Commitments of funds will require due diligence and project underwriting based on a project pro forma.



Promise Zone



The image shows the cover of the 'Spokane Regional Visitors Guide 2011-2012'. The title 'Spokane' is written in a large, white, cursive font against a blue sky background. Below it, 'Regional Visitors Guide 2011-2012' is printed in a smaller, white, sans-serif font. The central image depicts two young girls riding horses in a grassy field with a lake and mountains in the background. The horses are dark brown, and the girls are wearing colorful, patterned blankets. In the top left corner, there is a circular seal that reads '2011-2012 Spokane Regional VISITORS PUBLICATION OFFICIAL FOR SPOKANE COUNTY Visitors Guide'. At the bottom left, there is a table of contents listing page numbers and topics. At the bottom right, there is a logo for 'KALISPEL TRIBE OF INDIANS'.

2011-2012 Spokane Regional
VISITORS PUBLICATION
OFFICIAL
FOR SPOKANE COUNTY
Visitors Guide

Spokane

Regional Visitors Guide 2011-2012

p. 10 | Distinctive Communities

p. 19 | Destination da Vinci
Man-Inventor-Genius

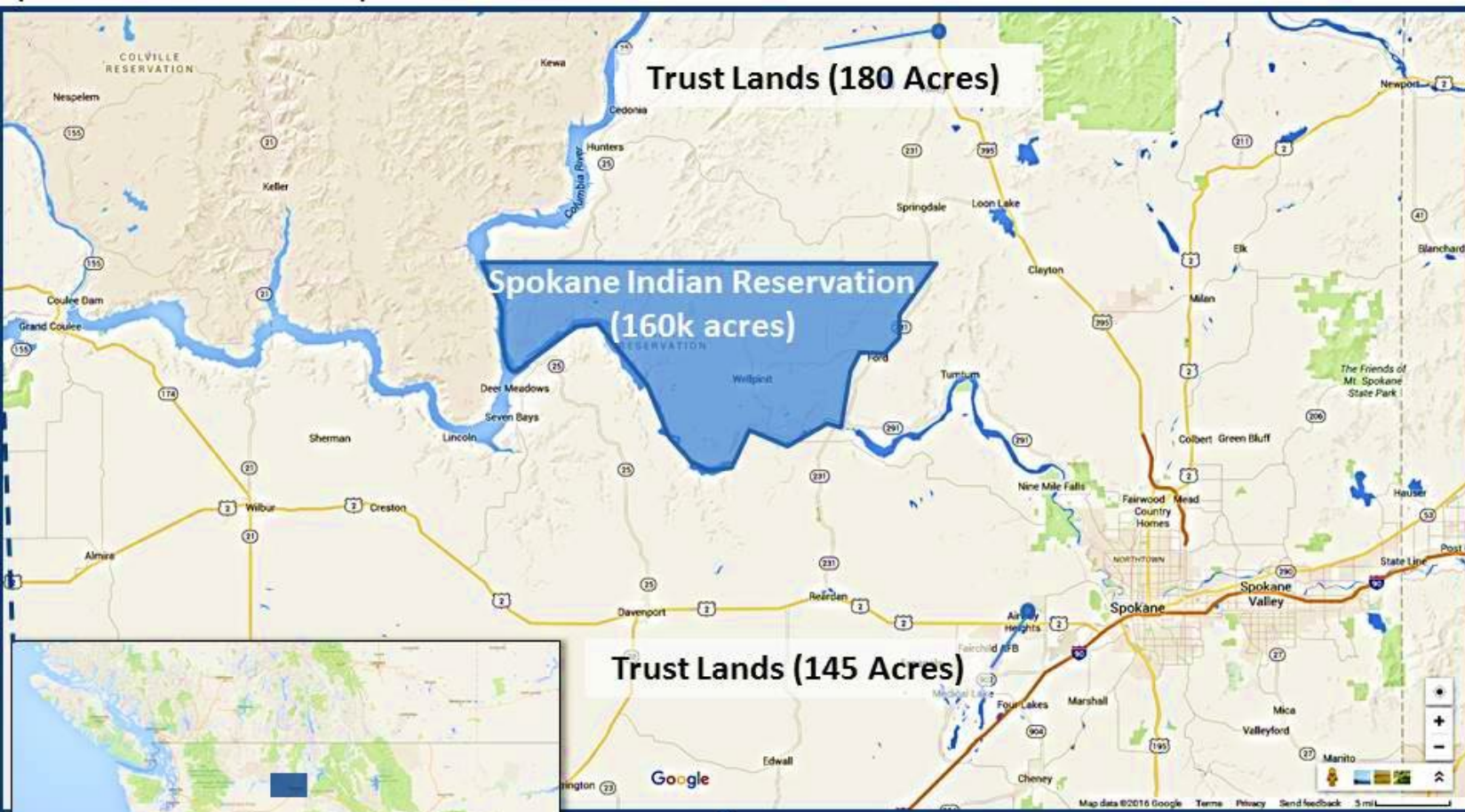
p. D1 | Eat like a local!
Where to find great food and wine!

KALISPEL
TRIBE OF INDIANS



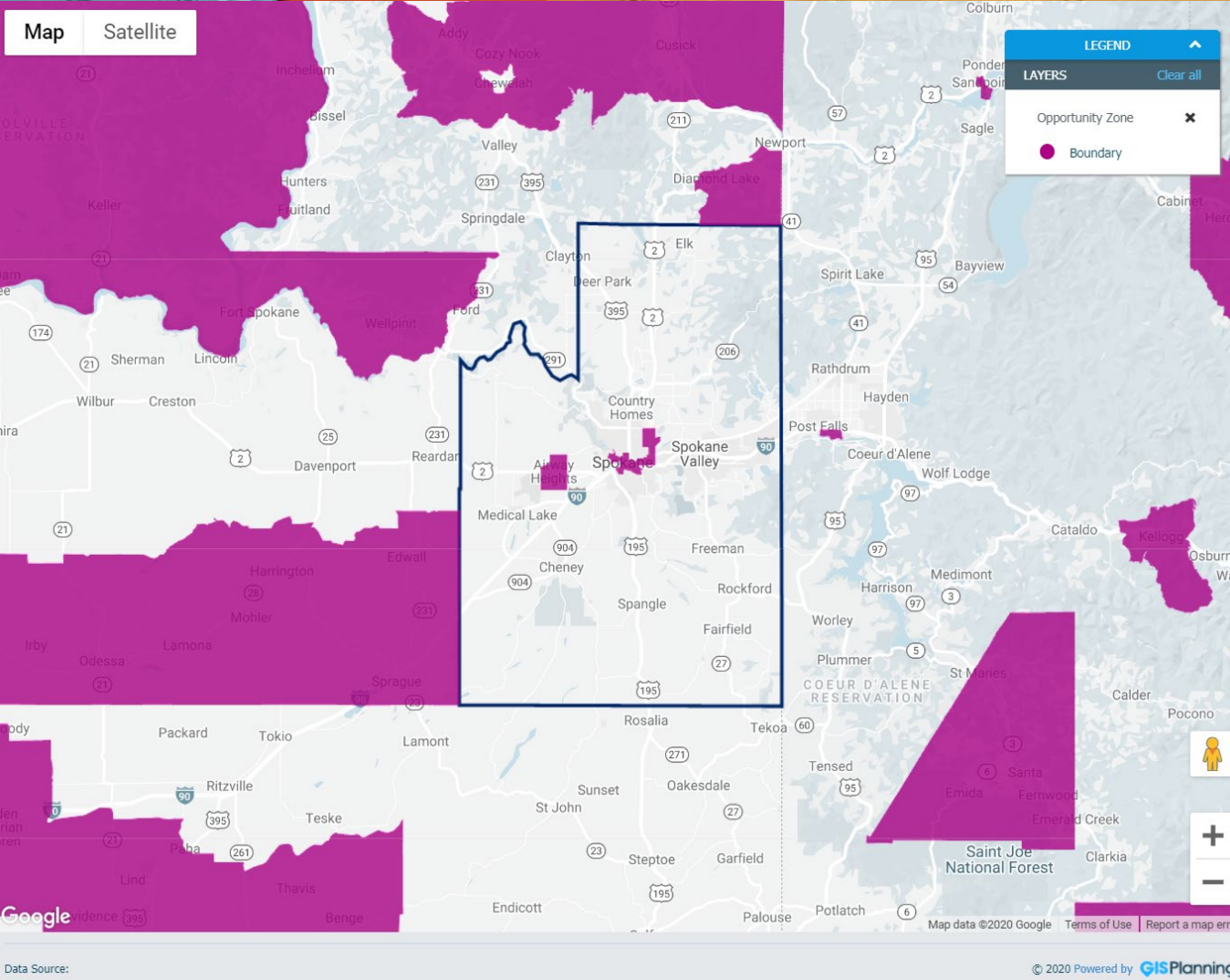
**Spokane Tribe
of Indians**

Opportunity Zones



Spokane Tribe of Indians

Spokane Tribe of Indians
Third Round Promise Zone Application



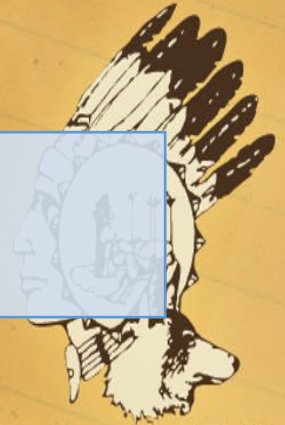
**Spokane Tribe
of Indians**

ity Zones

≈ 2,900 Citizens

≈ 41% Unemployment

≈ 33% Poverty



Spokane Tribe
of Indians

Opportunity Zones

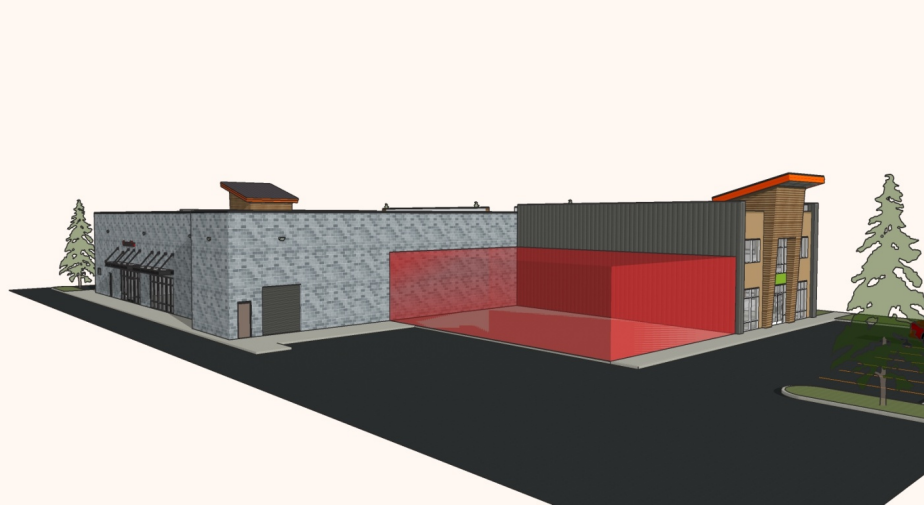
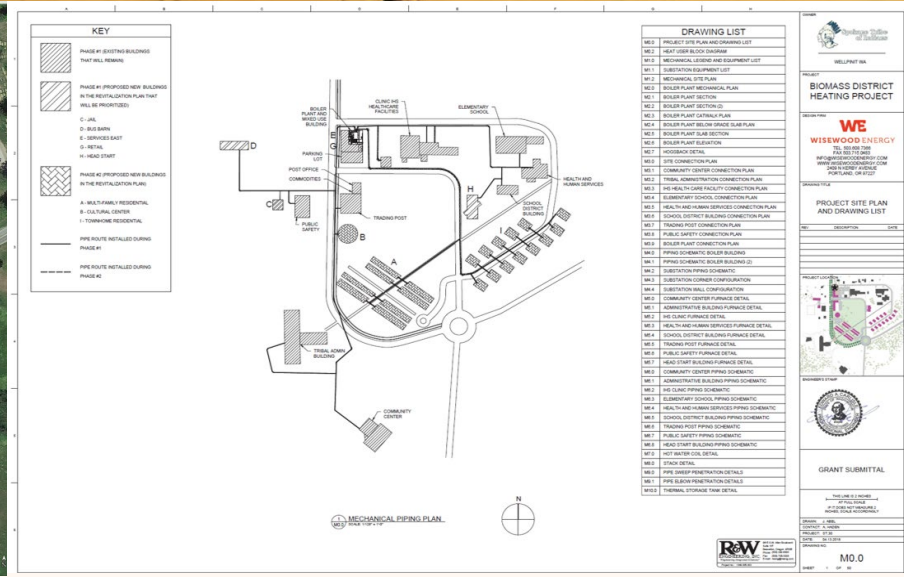
Promise Zone



**Spokane Tribe
of Indians**

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Promise Zone



Additional information

HUD website

<https://opportunityzones.hud.gov/>

IRS website

<https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions>

CDFI website

<https://www.cdfifund.gov/Pages/Opportunity-Zones.aspx>

Interior – BIA

https://www.bia.gov/sites/bia.gov/files/assets/asia/ieed/ieed/pdf/Opportunity_Zones_Primer.pdf



Questions to think about

Is your tribe in or near an Opportunity Zone?

Do your project(s) fit into Opportunity Zone type investments (housing, businesses, infrastructure, etc.)?

Discuss internally whether the Opportunity Zone structure is a good fit for you (taking on partners, equity investment, etc.)

What Opportunity Zone funds that may work for your project (marketing, recruiting a fund)?



CONVERSATION WITH HEIDI



Overview: WHORC

The White House Opportunity and Revitalization Council (WHORC) was set up by Presidential Executive Order in December 2018 and is chaired by HUD Secretary Carson

- The Council includes 17 Federal agencies and Federal/State partnerships
- The Council has taken action on more than 200 items across the federal government.
- Some examples of the HUD actions taken include:
 - Reduced application fees for FHA mortgage insurance for properties in OZs
 - Preference points for numerous HUD competitive grants, including IHBG Competitive and ICDBG



Overview: WHORC cont'd

- The Council, led by Executive Director Scott Turner, has visited more than 60 places across the US—including tribal lands
- On February 7, 2020, the Council submitted a one-year report to President Trump
- And, also hosted an Opportunity Now summit in Charlotte, NC
- For up-to-date info on OZ's visit www.OpportunityZones.gov



Resources

Webinar series

- I: OZ 101, February 13, 2020
- II: Opportunity Zones and Tribes, TBD
- III: Engaging Investors, TBD

Technical Assistance



Questions?

QUESTIONS??? Press #2 or use the chat box



THANK YOU
for joining

