# An Opportunity for the Rich

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June 19, 2019

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( Matt Roth / ProPublica )

Under a six-lane span of freeway leading into downtown Baltimore sits what may be the most valuable parking spaces in America.

Lying near a development project controlled by Under Armour’s billionaire CEO Kevin Plank, one of Maryland’s richest men, and Goldman Sachs, the little sliver of land will allow Plank and the other investors to claim what could amount to millions in tax breaks for the project, known as Port Covington.

They have President Donald Trump’s 2017 tax overhaul law to thank. The new law has a provision meant to spur investment into underdeveloped areas, called “opportunity zones.” The idea is to grant lucrative tax breaks to encourage new investment in poor areas around the country, carefully selected by each state’s governor.

But Port Covington, an ambitious development geared to millennials to feature offices, a hotel, apartments, and shopping, is not in a census tract that is poor. It’s not a new investment. And the census tract only became eligible to be an opportunity zone thanks to a mapping error.

As the selection process was underway, a deputy chief of staff to Maryland's governor wrote in an email that “Port Covington does not qualify” as an opportunity zone.

Maryland's governor chose the area for the program anyway — after his aides met with the lobbyists for Plank, who owns about 40% of the zone.

“This is a classic example of a windfall benefit,” said Robert Stoker, a George Washington University professor who has studied economic development in Baltimore for decades. “A major investment was already planned and now is in a zone where they are going to qualify for all kinds of beneficial tax treatment.”

In selecting Port Covington, the governor had to exclude another Maryland community from the opportunity zone program. In Baltimore, for example, the governor dropped part of a neighborhood that city officials recommended for the program — Brooklyn — with a median family income one-fifth that of Port Covington. Brooklyn sits just across the Patapsco river from Port Covington, in an area that suffers from one of the highest drug and alcohol death rates in Baltimore, which in turn has one of the highest drug fatality rates nationwide.

In a statement, Marc Weller, a developer who is Plank’s partner in the project, defended the opportunity zone designation. “Port Covington being part of an Opportunity Zone will attract more investors, foster more economic growth in a neglected area of the City, and directly benefit all of the surrounding communities for decades to come,” Weller said. Supporters say the Port Covington development could help several nearby struggling south Baltimore neighborhoods.

An official in the administration of Maryland’s Republican governor, Larry Hogan, said, “The success of that project is really going to go a long way to providing benefits for the whole city of Baltimore.” The official added: “The governor is a huge supporter of the development.”

A spokesperson for the state's Department of Housing and Community Development, which was involved in the selection process, said that "due to the time limits of the federal tax incentive, the state of Maryland did purposefully select census tracts where projects were beginning to increase the odds of attracting additional private sector investment to Maryland's opportunity zones in the near term."

**The Birth of a New Tax Break**

In December 2017, Trump signed the Tax Cuts and Jobs Act, his signature legislative achievement. Much criticized as a giveaway to the rich, the law includes one headline provision that backers promised would help the poor: opportunity zones.

Supporters of the program argued it would unleash economic development in otherwise overlooked communities. "Our goal is to rebuild homes, schools, businesses and communities that need it the most," Trump declared at a recent event, adding, "To revitalize these areas, we've lowered the capital gains tax for long-term investment in opportunity zones all the way down to a very big, fat, beautiful number of zero."

The provision has bipartisan support. "These cities are gold mines," New Jersey Sen. Cory Booker, a 2020 presidential hopeful and main Democratic architect of the program, told real estate investors in October. "They're domestic emerging markets that are more exciting than anything you'll see overseas."

Here's how the program works. Say you're a hedge fund manager, you purchased Google stock years ago, and are sitting on $1 billion in gains. If you sell, you'd send the IRS about $240 million, a lot less than ordinary income tax but still annoying. To avoid paying that much, you can sell the shares and put the $1 billion into an opportunity zone. That comes with three generous breaks. The first is that you defer that $240 million in capital gains tax, allowing you to invest more money up front. But if that's not enough for you, you can hold the investment for several years and you'll get a significant reduction in those taxes. What's more, any additional gains from the new investment are tax-free after 10 years.

It's impossible to predict how much the tax break will be worth to individual investors because it depends on several variables, not least whether the underlying project gains in value. But one investment pitch projected 10-year returns would jump to 91% from 29% on a hypothetical $1 million investment. That includes $284,000 in tax breaks — money the federal government would have collected from taxpayers with capital gains but for the program.

The tax code already favored real estate developers like Trump, and his overhaul made it even friendlier. Investors can put money into a range of projects in opportunity zones, but so far most of the publicly announced deals are in real estate. The tax break has led to a marketing boom, with Wall Street pitching investors to raise funds to invest in the zones. Critics argue that the program is flawed, pointing out that there's no guarantee that the capital investment will help community residents, that the selection process was vulnerable to outside influence, and that it could be a **giveaway** for projects that were going to happen anyway. In a case in Chicago uncovered by **the Real Deal**, two tracts already slated for a major development project were selected by the governor as opportunity zones even though city officials hadn't initially recommended them.

Under the new law, areas of the country deemed to be "low-income communities" would be eligible to be named opportunity zones. The Treasury Department determined which census tracts qualified. Then governors of each state could select one quarter of those tracts to get the tax benefit.

That governor prerogative turned out to be very useful to Kevin Plank.

**Plank's Dream**

In 2012, Plank-connected entities quietly began buying up waterfront property on a largely vacant and isolated peninsula south of downtown Baltimore. Often using **shell companies** to shield the identity of the true buyer, they ultimately spent more than $100 million acquiring much of the peninsula. Plank's privately held Sagamore Development now controls roughly 40% of the area that would later be named an opportunity zone.

In early 2015, more than two and a half years before Trump's tax law passed, Plank revealed himself as the money behind the purchases. He planned a new development and headquarters for Under Armour, the sports apparel company he started after coming up with the idea as a University of Maryland football player. Today, Under Armour employs 15,000 people. Plank has a net worth of around **$2 billion**.

Though the Port Covington area was cut off from downtown by I-95, Plank said he likes the location because of the visibility. "When people drive through Baltimore [on I-95] I literally want them to drive through and go, 'There's Baltimore on the right. There's Under Armour on the left,'" he told **The Baltimore Sun**.

A year later, Plank's firm took his vision to the general public, running TV and print ads touting the new project. One of the ads, reminiscent of the Democratic presidential primary spots airing at that time, was filled with a diverse cast sharing their dreams for a new city within a city.

"We will build it. Together," **the ad begins**, before running through a glittering digital rendering of contemporary urban design features. Office towers, shops, transit, parks, jobs — all of it to be anchored by a new world headquarters of the city's most visible brand name, Under Armour. Sagamore would spearhead the project and sell land to others who would build businesses and housing.

Even before qualifying for the opportunity zone break, taxpayers were going to subsidize the development. Days after the ads touting togetherness, Plank proposed that the city float $660 million in bonds to help build what the company has said would be a $5.5 billion development. Opponents contended Plank's proposal amounted to corporate welfare that would exacerbate the city's stark economic and racial divides. But the company agreed to provide millions of dollars to the city and a group of nearby low-income neighborhoods to gain support for the project, and the City Council passed the measure that fall.

As Under Armour's stock plummeted in 2017 amid slowing sales growth and progress on the Port Covington project lagged. That September, Goldman Sachs stepped in to commit $233 million from its Urban Investment Group. Hogan, himself a real estate developer, personally spoke with the then-CEO of Goldman, Lloyd Blankfein, about the deal.

**Meeting With the Governor's Office**

In the weeks after the 2017 federal tax overhaul passed, Plank's team spotted an opportunity.

Nick Manis, a veteran Annapolis lobbyist who has also represented the Baltimore Ravens, reached out to Hogan's chief of staff about Port Covington, according to emails obtained by ProPublica through a public records request. The developers and their lobbyists had given at least $15,000 to Hogan's campaigns in recent years. A meeting was set for early February.




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Port Covington was out — unless the tract could somehow be considered low-income in its own right.

On Feb. 5, the Port Covington development team arrived at the second floor of the statehouse in the opulent governor's reception room to meet with top Hogan aides. The agenda for the meeting included opportunity zones, as well as transit and infrastructure issues. The developer's team requested that the Port Covington tract be made an opportunity zone. The state officials "acknowledged their interest in receiving that designation," a Hogan administration official said.

### Bank Error in Your Favor

Three days after that meeting, Plank and the Port Covington developers got bad news. The Treasury Department released a list of census tracts across the country that were sufficiently poor to be included in the program. Port Covington was not included in that list.

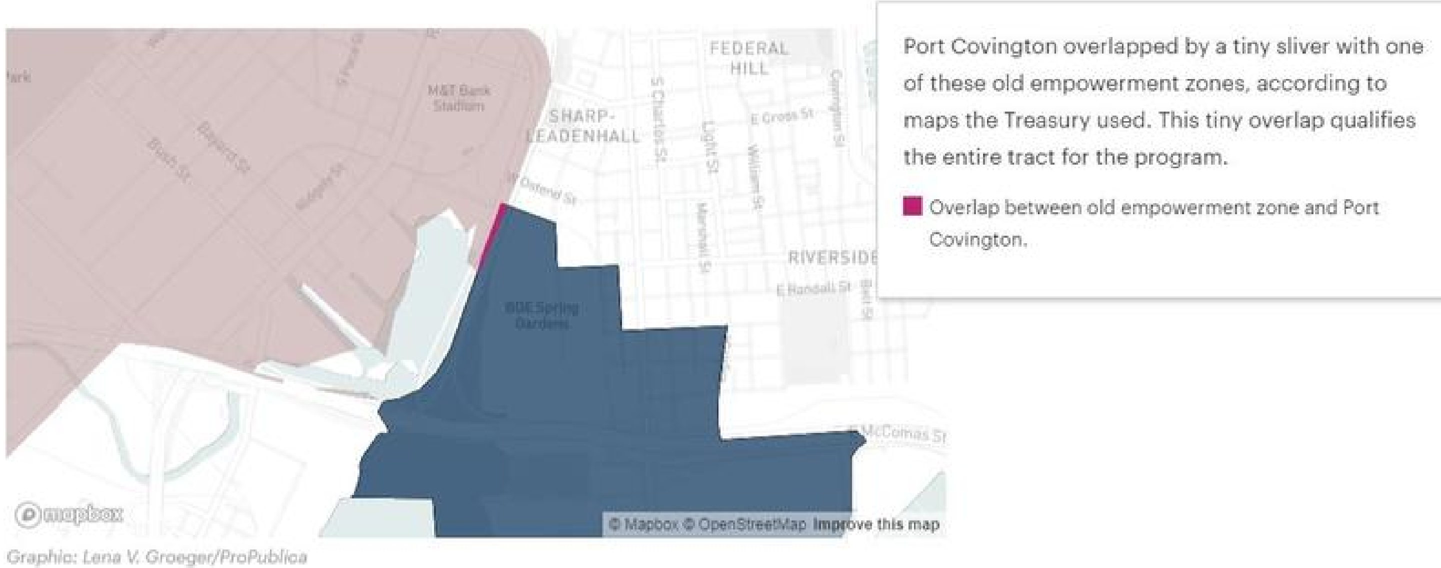
Three weeks later, however, things turned around. The Treasury Department issued a revised list. The agency said it had left out some tracts in error. The revised list included 168 new areas across the country defined by the agency as “low-income communities.”

This time, Port Covington made the cut.

It couldn’t have qualified because its residents were poor. It couldn’t qualify because it was next to some place that was poor. But the tract could qualify under yet another provision of the law. Some tracts could make the cut if they had fewer than 2,000 people and if they were “within” what’s known as an empowerment zone. That was a Clinton-era redevelopment initiative also aimed at low-income areas.

Port Covington wasn’t actually within an empowerment zone, but it is next to one. So how did it qualify? The area met the definition of “within” because the digital map files the Treasury Department used showed that Port Covington overlapped with a neighboring tract that was designated an empowerment zone, Treasury officials told ProPublica.

That overlap: the sliver of parking lot beneath I-395. That piece of the lot is about one **one-thousandth of a square mile**.

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There are no regulations or guidance on how to interpret the tax law's use of "within," said a spokesman for the Treasury Department's Community Development Financial Institutions Fund, which compiled the maps. The agency made what it called a "technical decision" that **any** partial overlap with an Empowerment Zone would count as being "within" that zone — no matter how small the area, or if anyone lived there.

Or, if the overlap was even real.

Turns out, no part of Port Covington actually overlapped with the empowerment zone.

Treasury's decision ignored a well-known problem in geographic analysis known as misalignment, mapping experts said.

Misalignment happens when the lines on digital maps made by two sources differ slightly about where things like roads and buildings lie, according to Henry Luan, a professor of geography at the University of Oregon.

For example, if a tract ends at a highway, one file might show the border on the near side of the highway while another — when zoomed all the way in — might show it a few feet away on the far side. When laid on top of each other, the two files end up with minuscule differences that don't mean anything in the real world.

Except in this case, it had big real world consequences for Port Covington. The mapping error allowed the entire tract to qualify as an opportunity zone.

"That area of overlap is a complete artifact of" the map files Treasury used, said David Van Riper, director of spatial analysis at the Minnesota Population Center. "It's not an actual overlap."

Sometime in the mid-2000s, the Census Bureau used GPS devices to make its map files more accurately represent the country's roads. One of the maps used by Treasury appeared to be based on the older, less accurate Census maps, Van Riper said.

Even accepting Treasury's misaligned maps, the entire Port Covington tract receives tax benefits, even though less than 0.3% of it overlaps with the neighboring tract.

"Only a minimal overlap, but you make the whole Census tract benefit from the policy?" Luan said. "That doesn't make sense to me."

Port Covington is one of just a handful of tracts in the country that ProPublica identified that qualified through similar flaws in Treasury's process.

**Taking the Break**

There is no evidence that Plank or the Port Covington developers influenced the Treasury Department's revision.

But the lobbying of the governor before the Treasury change appears to have paid off.

As they were lobbying, Baltimore officials were working out which parts of the city would benefit most from being opportunity zones. They petitioned the governor to pick 41 low-income city neighborhoods to get the tax break, all of them well below the program's maximum income requirements.

The city's list remained largely intact when the governor made his selections in April. Hogan made just four changes, three of which qualified under the main criteria without the benefit of the mapping error. But the fourth didn't: Port Covington.

Plank's team cheered the revision. The very thing that made Port Covington a poor candidate to be an opportunity zone — that it wasn't a low-income area — could make it exceptionally attractive to investors. In January, they convened an opportunity zone conference at their Port Covington incubator called City Garage featuring state officials and executives from Goldman, Deloitte and other firms.

"Port Covington kind of fits all the needs," said Marc Weller, Plank's partner, at the conference. "It has all the entitlements, and it has a financial partner in place as well. It's probably the most premier piece of land in the United States that's in an opportunity zone."

The opportunity zone program has restrictions intended to prevent already-planned developments from benefitting. But the Port Covington developers told Bloomberg that the firm will be able to reap the benefits of the tax break because it has found new investors. Among the potential new investors who might take advantage of the tax break are Plank's own family, one of the developers told the Baltimore Business Journal. A Port Covington spokesman denied that Plank's family members are potential investors.

To get the maximum benefit, investments need to be made in 2019, though investments made through 2026 can take advantage of growth tax-free. Only a portion of the Port Covington project is expected to be underway by then.

A Goldman spokesman said it is "likely" that the firm will take advantage of the opportunity zone benefits in Port Covington, adding that it has "made no firm decisions about how each component will be financed."

Margaret Anadu, the head of Goldman's Urban Investment Group and the lead on the Port Covington investment, recently said of the opportunity zone program: "These are the same neighborhoods that have been suffering since redline started decades and decades ago, pretty much eliminating private investment. … And so we simply have to reverse that. And the only way to reverse that is to start to bring that private capital back into these neighborhoods."

The Port Covington tract is just 4% black. For it to be included in the program, another community somewhere in Maryland had to be excluded. The ones that the city suggested that were excluded by the governor, for example, are 68% black and have a poverty rate three times higher than Port Covington's.

There is some evidence suggesting being named an opportunity zone has already been a boon for property owners. An analysis by Zillow found that sale price gains in opportunity zones significantly outpaced gains in eligible tracts that weren't selected. Real Capital Analytics found that sales of developable sites in the zones rose 24% in the year after the law passed.

Under Armour has said it's still committed to building its new headquarters on the peninsula, but it's not clear when that will happen.

Still, other aspects of the once-stalled project finally started moving forward in recent months. After presenting plans for the first section inside the opportunity zone this winter, the project finally got underway on a rainy day in early May of this year.

"The project is real," Weller said at the kickoff event, which included Anadu, the Goldman Sachs executive, and city and state officials. "The project is starting. We're open for business."

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Hosted by Andrea Bernstein and Meg Cramer

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Produced by ProPublica and WNYC