

QUALIFICATION MECHANICS · PLAIN-ENGLISH BRIEFING

How Duneswalk qualifies as QOZBP

Prospective investors and their counsel frequently ask whether Duneswalk must "double its cost basis" or change the use of the property to qualify for Opportunity Zone treatment. The short answer is no. This briefing explains why, walks through the three IRS paths to qualification, and shows exactly which one Duneswalk uses.

Short answer. Duneswalk qualifies under the original-use test because it is ground-up construction of new buildings that have never before been placed in service in the Opportunity Zone. There is no requirement to double the basis of any existing structure and no requirement to change the use of the property.

The three paths to qualify

Every tangible asset held by a QOZB must satisfy one of the tests below to be counted as Qualified Opportunity Zone Business Property (QOZBP). These are alternative paths, not stacked requirements. A ground-up development qualifies as long as any single path is met.

PATH 1

Original use

Property is first placed in service in the OZ by the QOF or QOZB. The IRS treats newly constructed buildings and construction-in-progress purchased before the certificate of occupancy as original-use property.

DUNESWALK QUALIFIES HERE

PATH 2

Substantial improvement

Applies when acquiring an existing building. Investor must add improvements equal to the building's adjusted basis within 30 months (50% for rural QROFs post-7/4/2025). Land value is excluded from the doubling calculation.

NOT APPLICABLE FOR
DUNESWALK

PATH 3

Vacant / brownfield

A building vacant 1–3 years (depending on timing relative to the tract's OZ designation) or a designated brownfield site qualifies as original-use with no substantial improvement required.

NOT APPLICABLE FOR
DUNESWALK

Why Duneswalk qualifies under Path 1 (Original Use)

Ground-up construction	Duneswalk builds new residential and hospitality structures from the ground up. These buildings have never before been placed in service anywhere — by definition, the QOZB is the first user in the Opportunity Zone.
Original-use trigger	Under Treas. Reg. §1.1400Z2(d)-2, original use commences on the date the property is first placed in service for depreciation. New construction placed in service by the QOZB automatically satisfies this test.
No doubling required	The substantial-improvement (basis-doubling) test in Path 2 applies only to acquired existing structures. Because Duneswalk does not renovate a pre-existing building on the site, Path 2 is not a binding requirement.

No change of use required	The IRS does not require a change in use of the underlying land. It only requires that the property (the newly constructed building) be first placed in service by the QOZB.
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The land wrinkle (technical detail worth knowing)

Land is treated differently than buildings under the OZ regulations, and it's the source of most confusion around the basis-doubling rule.

Land cannot satisfy Path 1	Rev. Rul. 2018-29 confirms that "given the permanence of land, land can never have its original use in a QOZ commencing with a QOF." Land is always considered pre-existing.
But land is excluded from Path 2	The IRS carve-out: when a QOZB acquires land and builds on it, the substantial-improvement test is measured against the building basis alone. Land value is excluded from the amount that has to be "doubled."
Unimproved land	There is no separate substantial-improvement test for unimproved land if it is used in the active conduct of a QOZB's trade or business. New construction on top of it does the work of qualifying the land.
Net effect for Duneswalk	Land acquired + new construction placed in service = fully qualifying QOZBP. No doubling requirement is triggered; no separate land improvement is required beyond the buildings themselves.

Where the 50% rural threshold does apply

The OBBBA-introduced 50% substantial-improvement threshold for rural QROFs (effective for property placed in service after 7/4/2025) is a benefit that lowers the Path 2 hurdle from 100% to 50% of building basis. But it only matters if Duneswalk ever needs Path 2 — i.e., if a future phase includes acquiring and renovating an existing structure on an adjacent parcel.

For the primary ground-up development, Duneswalk is on Path 1 (original use) and the 50% threshold is not a binding constraint. It remains a valuable optionality reserve for future acquired-structure phases.

Investor takeaway. Duneswalk qualifies as QOZBP because the buildings we construct are new to the Opportunity Zone — the original-use test. This is the standard qualification path for ground-up OZ development and does not require doubling the basis of any existing structure or changing the use of the land. Investors' tax counsel should review the Path 1 election in the executable QOF and QOZB documents at term-sheet stage.

Sources and authorities. IRC §1400Z-2(d)(2)(D) and Treas. Reg. §1.1400Z2(d)-2 (definitions of QOZBP, original use, and substantial improvement). IRS — Opportunity Zones FAQ (A47–A49). Holland & Knight — Original use and substantial improvement. Baker 1031 — Ground-up vs. value-add OZ paths. Buchanan Ingersoll — QOZBP use test analysis (Bloomberg BNA). BDO — Second-tranche OZ regulations guide. Novogradac — Qualifying land as QOZBP. Rev. Rul. 2018-29 (land cannot satisfy original-use test). 50% rural substantial-improvement threshold under OBBBA: The Tax Adviser — Rural OZ 50% threshold.