

Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

TAX ABATEMENT FINANCIAL ANALYSIS

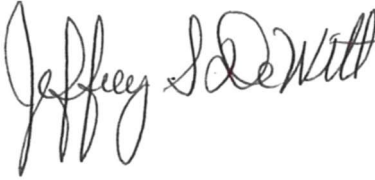
TO: The Honorable Kenyan McDuffie
Councilmember, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer

DATE: May 31, 2019

SUBJECT: "Supermarket Tax Incentives Eligible Area Amendment Act of 2019"

REFERENCE: Bill 23-86



Findings

The proposed expansions of geographic areas eligible for supermarket and retail tax exemptions under the Supermarket Tax Incentive program and the East End Grocery and Retail Incentive Tax Exemption program are not necessary to entice supermarkets or other qualified retail uses to locate in the areas identified in the Supermarket Tax Incentives Eligible Area Amendment Act of 2019 (the "Bill").

The amendment of the East End Grocery and Retail Incentive Tax Exemption to include Deanwood Town Center as an eligible area would enhance benefits already available to this development under the Supermarkets Tax Incentive program. Absent any evidence demonstrating financial hardship, the Office of the Chief Financial Officer ("OCFO") finds that the enhanced tax incentives are not necessary to meet fiscal needs.

The extension of the Supermarket Tax Incentive program to include Census Tract 76.3 would potentially extend eligibility to an existing supermarket that has been operating without these incentives, indicating that the exemptions are not necessary to achieve the purpose of the legislation.

Background

The Bill would amend the eligible areas of two District incentive programs that provide as-of-right tax abatements to supermarkets and anchor retail stores. The amendment would (1) add the Deanwood Town Center as an eligible location to the East End Grocery and Retail Incentive Tax Exemption¹ and (2) add Census Tract 76.3 to the definition of areas eligible for the Supermarket Tax Incentive.²

¹ DC Official Code §47-4667

² DC Official Code §47-3801 et seq.

Deanwood Town Center is a proposed mixed-used development located at 5110 Nannie Helen Burroughs Avenue NE (Lot 65 in Square 5197). The project, to be developed by the Warrenton Group (the “Developer”), will include approximately 183 residential units, comprised of 61 DC Housing Authority replacement units, 104 units that are restricted to households with incomes at or below 60 percent of Area Median family Income, and 18 market-rate units. The project will also include approximately 16,000 square feet of retail space. The Developer submitted a Planned Unit Development (“PUD”) application to the DC Zoning Commission and received a consolidated approval of the PUD on June 11, 2018.³ As a condition of its PUD approval, the Developer agreed to, among other commitments, seek a supermarket as a primary focus of its retail tenant search, with a drug store, in addition to eating and drinking establishments as a secondary focus; the developer also agreed to market approximately 1,200 square feet of retail to a Ward 7 Small Business Enterprise or Certified Business Enterprise⁴.

Census Tract 76.3, located in the Southeast quadrant of the city, is generally bounded by Naylor Road, Alabama Avenue, Pennsylvania Avenue, and Southern Avenue. It is predominantly residential in its land use. There are two shopping centers at the western and eastern edges of the Census tract, a shopping center at the Naylor Road, SE and Alabama Avenue, SE intersection and a smaller commercial center at Alabama Avenue, SE and Pennsylvania Avenue, SE. The shopping center located at Naylor Road and Alabama Avenue includes an operating Safeway supermarket at 2845 Alabama Avenue SE (the Alabama Avenue Safeway) which may be eligible⁵ for the Supermarket Tax Incentives program if the Census tract is included as an eligible area.⁶

Financial Analysis

The Exemptions and Abatements Information Requirements Act⁷ requires the analysis provided by the Office of Economic Development Finance (EDF) to contain certain information, provided below.

A separate fiscal impact statement will be prepared on the Bill.

Terms of the Exemption or Abatement

The Bill would amend the Supermarket Tax Incentive legislation to add Census Tract 76.3 as an eligible area. The as-of-right tax benefits provided by the Supermarket Tax Incentive legislation to location-eligible, qualified supermarkets are as follows:⁸

³ See Z. C. Order No. 17-19

⁴ The order requires that prior to issuance of a final certificate of occupancy for the retail space, the developer must furnish the Zoning Administrator with evidence that the retail space was marketed to these types of retailers, but does not require that leasing be restricted to the desired uses or retailer status.

⁵ Designation of Tract 76.3 as an eligible area would not automatically entitle this store to the Supermarket Tax Incentives because a supermarket must meet a number of additional requirements in order to establish eligibility for these incentives. The available information does not establish whether this supermarket would qualify for these incentives even if Tract 76.3 was designated as an eligible area.

⁶ The Supermarket Tax Incentive program provides benefits to qualified supermarkets receiving building permits on or after October 4, 2000 for new construction or substantial rehabilitation. See D.C. Official Code §47-3801(1)(A).

⁷ D.D. Official Code §47-4701.

⁸ D.C. Official Code §47-3802(a) provides the same tax incentives to qualified restaurants or retail stores. However, these entities are not eligible for an exemption until the fiscal effect is included in an approved budget or financial plan.

- 1) 10-year real property tax exemption;
- 2) 10-year exemption from license fees;
- 3) 10-year personal property exemption; and
- 4) Sales and use tax exemption on building materials.

Deanwood Town Center is already within a Census tract eligible for the Supermarket Tax Incentives. The proposed legislation would add Deanwood Town Center to the areas eligible for the East End Grocery and Retail Incentive Tax Exemption, providing an enhanced set of as-of-right exemptions to attract grocery and non-grocery anchor retail stores to specified locations. These benefits (the “East End Incentives”) include the following:

- 1) 30-year real property and possessory interest tax exemption;
- 2) 30-year exemption from license fees;
- 3) 30-year personal property exemption;
- 4) 30-year exemption from corporate franchise taxes;
- 5) 30-year sales and use tax exemption on building materials; and
- 6) Exemption from recordation and transfer taxes.

In addition to eligibility requirements defined by location and type of business, the East End Grocery and Retail Incentive Tax Exemption legislation requires business owner recipients to certify that 50 percent of full-time employees are District residents.⁹

Annual Proposed Value of the Exemption or Abatement

The annual value of these exemptions to a newly constructed or substantially renovated grocery store, or other retail anchor store, will vary widely depending on the size and location of the property, among other factors. For newly constructed supermarkets, the value will be higher in the initial year, due to the exemptions that are applicable to the sales and use taxes on building materials.

Deanwood Town Center

The value of the East End Incentives to Deanwood Town Center will also vary depending on the amount of the retail space occupied by eligible businesses, and whether those businesses already qualify as eligible under the Supermarket Tax Incentive legislation that already applies to this site¹⁰. Assuming that a) all 16,000 square feet of proposed Deanwood Town Center retail qualifies for the East End Incentives, and b) none of the proposed retail space has already been budgeted in the financial plan under the Supermarket Tax Incentive, the estimated value of the East End Incentives is summarized in the following table.

⁹ DC Official Code §47-4667(d)(1)

¹⁰ The Supermarket Tax Incentive program, under D.C. Official Code §47-3802(a), provides qualified restaurants and retail stores with the same set of incentives as qualified supermarkets, but only if the fiscal effect is included in an approved budget or financial plan; i.e., in applying the Supermarket Tax Incentive program to Deanwood Town Center, only qualified supermarkets are already budgeted under the legislation. Also, non-anchor retail tenants that are not grocery stores or restaurants would not qualify for the East End Incentives.

	FY 20	FY 21	FY 22	FY 23	FY 24-49	Total	
						Financial Plan Period FY20-23	Term of Abatement FY 20-49
Estimated Value of Abatement, Deanwood Town Center¹¹	\$254,000	\$125,000	\$238,000	\$245,000	\$9,124,000	\$862,000	\$9,986,000

Census Tract 76.3

The value of the amendment if the Supermarket Tax Incentive is amended to include Census Tract 76.3 depends on the details of the eligible project or projects. For example, in FY 2018 the value of the Supermarket Tax Incentive program to 10 qualified supermarkets receiving the exemption ranged from \$40,028 to \$528,076, and an additional \$1,356,000 in personal property and sales tax on construction materials in aggregate for all qualified supermarkets. As an additional point of information, the 2019 real property tax liability for the tax lot that includes the Alabama Avenue Safeway as an anchor tenant is \$391,455.

Summary of the Proposed Community Benefits

The legislation proposes to extend the benefits provided by the East End Grocery and Retail Tax Incentive Exemption and the Supermarket Tax Incentive.

Financial Analysis

East End Grocery and Retail Tax Incentive Exemption: Deanwood Town Center

The Developer did not provide the OCFO with sufficient information in preparation of this analysis. Deanwood Town Center is located in a Supermarket Tax Incentives eligible area. Use of the Supermarket Tax Incentive benefits will allow it to receive a substantial portion of the exemption value it would receive through the East End Incentives for 10 years. In the absence of any information from the Developer, OCFO cannot confirm that the additional benefits and the extension of the benefits from Year 11 through Year 30 are financially necessary for the project to attract investment.

Supermarket Tax Incentive: Census Tract 76.3

Because the entity or entities benefitting from the proposed abatement are not specified, the financial analysis reviews and evaluates the public policy goal intended to be addressed by including Census Tract 76.3 as eligible for Supermarket Tax Incentives, including whether the exemption or abatement is appropriately targeted and likely to achieve the intended goal.

The Bill expands the Supermarket Tax Incentive’s eligible area. In 2000, the Council expanded the duration of the real property and license fee exemption in the original legislation, added new types of exemptions, and modified eligibility requirements.¹² In 2010, the Council modified the geographic

¹¹ The estimate includes a one-time value for recordation tax in FY20, sales and use tax on construction materials in FY 20 and FY 21, annual personal property tax starting in FY21, and real property tax, license fees, and franchise tax annually starting in FY22.

¹² The Supermarket Tax Exemption Act of 2000 (Bill 13-88) added a personal property tax exemption and a sales and use tax exemption on building materials used to construct or substantially renovate a qualified supermarket, and expanded the length of exemptions to 10 years. It also modified the eligibility requirement

area of eligibility¹³ and to add specific census tracts, as well as to provide incentives to increase healthy food access for low-income areas through corner stores, farmer’s markets, and smaller food retailers. Called the Food, Environmental, and Economic Development in the District of Columbia Act of 2010, the legislation articulated an intent of establishing “a program to attract grocery stores to and renovate grocery stores in low-income areas in the District; to require participating grocery stores to employ District residents and provide them with quality jobs, accept SNAP benefits, and accept WIC benefits....” among other objectives.¹⁴

Given the geographic size of the Census tract and the location of the Alabama Avenue Safeway on its western edge, the Census tract meets the dual criteria of a “food desert”¹⁵ defined by the U.S. Department of Agriculture. As described in the table below, Census Tract 76.3 meets the defined thresholds for both a low income area and low access area.

USDA Food Deserts Criteria	Criteria Threshold	Census Tract 76.3
Low Income: Based on Median Family Income or Poverty Rate, AND	Less than \$85,600, <u>or</u> 20% or more in poverty	\$56,643 (14.8% poverty rate)
Low Access: People Living 1 Mile or More from a Supermarket	More than 500 people, <u>or</u> 33.3% of more of residents	573 (14% of residents)

Whether a supermarket would choose to locate in a certain area depends upon numerous market factors. Research indicates that supermarket site selection depends primarily upon income of the nearby population, distance and type of competing food markets, and access for customer and supplier vehicles, rather than on the presence of government incentives. However, supermarkets succeed on volume and operate on very low profit margins, with a national average of 1.1% after taxes¹⁶. Any reduction in operating expenses, such as those included in the proposed exemptions, could have a meaningful impact on profit and ability to respond to increased competition.

The Alabama Avenue Safeway operates without receiving the tax abatements, indicating that the tax abatements are not necessary for this supermarket to continue to operate at its current location at the current time. The food access and employment opportunities provided by this grocery store are available without the Supermarket Tax Incentives. A dearth of supermarkets continues to be a challenge in neighborhoods east of the Anacostia River, even though most Census tracts in Ward 7 and 8 are already eligible areas for the Supermarket Tax Incentives. The Alabama Avenue Safeway

by replacing underserved areas with specific priority development areas defined by the National Capital Revitalization Act of 1998.

¹³ Changes incorporated the application of Federal historically underutilized business zones (HUBZones) as eligible areas, defined as any area located within 1 or more: qualified census tracts, qualified nonmetropolitan counties, lands within the external boundaries of an Indian reservation, redesignated areas, or base closure areas. (Qualified census tracts are areas that have 50 percent of households with incomes below 60 percent of the Area Median Gross Income or have a poverty rate of 25 percent or more).

¹⁴ Bill 18-967.

¹⁵ . Source: the USDA Food Access Research Atlas, at <https://www.ers.usda.gov/data-products/food-access-research-atlas/> Population data are from the 2010 Census of Population and Housing, and income data derive from the 2010-14 American Community Survey. Access measures use two 2015 directories of U.S. supermarkets, supercenters, and large grocery stores.

¹⁶ Supermarket Facts,” October 2017, from the Food Marketing Institute (the trade association for food retailers), at <https://www.fmi.org/our-research/supermarket-facts>

is one of only two full-service grocery stores in Ward 7, and one of only three full-service grocery stores serving about 150,000 residents in Wards 7 and 8 combined.