

Capital Reporting Company
In the Matter of: Glen's Garden Market, LLC 09-19-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :
 :
Glen's Garden Market, LLC :
t/a Glen's Garden Market :
2001 S Street, NW :
Retailer B : Fact Finding
License No. 90082 : Hearing
ANC 2B :
New Application :
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September 19, 2012

The Alcoholic Beverage Control

Board met in the Alcoholic Beverage Control Hearing
Room, Reeves Building, 2000 14th Street, N.W.,
Washington, D.C., Ruthanne Miller, Chairperson,
presiding.

PRESENT

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
HERMAN JONES, Member
CALVIN NOPHLIN, Member
MIKE SILVERSTEIN, Member

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<p style="text-align: right;">6</p> <p>1 is a community table. And then there's a bar on the 2 perimeter of this page and then a standup lunch counter 3 on the other side of the space. 4 Unfortunately, we're limited by the fact 5 that, you know, Virginia wines, while up and coming, 6 have not yet quite arrived. So there just simply 7 aren't that many options available. So it'll be sort 8 of a beer-driven beer and wine bar concept. But again, 9 as you can see, relative to the rest of the space, it's 10 a fairly minimal amount of my inventory. 11 The long table up the middle is going to be 12 the main display piece for grocery merchandise. So 13 that'll be where all the shelf-stable grocery goes. And 14 you can see that there are sort of geometrically odd- 15 looking pieces that stick out from that rectangle. 16 Those will all be little merchandising shelves that 17 pull out from under that big picture. So we'll have 18 lots of sort of dense, cool-looking merchandising for 19 all of the shelf- stable grocery. 20 Along the whole right wall will be more 21 shelf- stable grocery. And then you can see there's a 22 produce and a dairy -- what's called the narrow deck,</p>	<p style="text-align: right;">8</p> <p>1 to the left side of the space is our frozen foods 2 refrigeration cooler. So in there you'll have, you 3 know, local frozen meals, ice creams, that sort of 4 thing -- and also meat. All of the meat that we sell 5 is going to be sold frozen because it's just a -- it's 6 easier to frankly control spoil and maintain freshness. 7 So as you can see, I don't plan to sell so 8 much as a single body product. This is a full-on 9 grocery store -- food only. 10 MR. KLINE: Now, this is Danielle's first 11 venture into the grocery business but it is in her 12 blood. You want to tell the Board your family's 13 background in the grocery business? 14 MS. VOGEL: Sure. So my father was a grocer. 15 He started a supermarket chain called The Food Emporium 16 up in the New York area. His father was also a grocer, 17 who started a competing supermarket chain called 18 Shopwell. And my mother's father was also a grocer, 19 who started a big chain called Pathmark. These chains 20 are all in the tri-state area, New York, New Jersey and 21 Connecticut. So it's definitely in my genetic code. 22 MR. KLINE: I thought that was very</p>
<p style="text-align: right;">7</p> <p>1 which is sort of a minimal profile refrigerated cooler. 2 So in there we'll have things like cut lettuce for, you 3 know, bagged salad and herbs and that sort of thing. 4 And then in the dairy, of course we'll have milk and 5 yogurt and butter and those sorts of things. 6 In the back of the space, sort of the 7 heartbeat of the operation is this 16-foot prepared 8 food service counter. So from there, the chef is going 9 to be making different, you know, salads and soups and 10 stews and all sorts of things daily from the produce 11 that we're getting in and the like and serving them up 12 on a menu that changes every day. 13 And then over to the right of that is the -- 14 is an 18-foot cheese and charcuterie service counter. 15 And again, that's going to be all cheese that comes 16 from Virginia, West Virginia, Maryland, Delaware, 17 Pennsylvania and New York. And then all along the back 18 of the space is our cook line. So it'll be an open 19 kitchen. Customers will be able to come in and watch 20 all of these wonderful local foods being prepared right 21 in front of them. 22 And then the long rectangle with doors over</p>	<p style="text-align: right;">9</p> <p>1 interesting in terms of her family's background, all of 2 them -- 3 MS. VOGEL: Yeah. 4 MR. KLINE: -- in the grocery business. 5 MS. VOGEL: The Glen of Glen's Garden Market 6 is my father. I'm naming the store after him. 7 MR. KLINE: In terms of the technical 8 requirements, I think that you should -- and Danielle 9 can tell you that in terms of -- and you should be able 10 to see from the limited amount of space dedicated for 11 beer and wine that the amount of alcohol will certainly 12 be way less than the 15 percent limitation under the 13 statute for full-service grocery store. In addition -- 14 CHAIRPERSON MILLER: Do you know the percent? 15 MR. KLINE: I beg your pardon? 16 CHAIRPERSON MILLER: Do you know the 17 percentage, what it would be? 18 MS. VOGEL: What it will be? 19 MR. KLINE: Estimated? 20 CHAIRPERSON MILLER: Uh-huh. 21 MS. VOGEL: I don't have an estimate. 22 CHAIRPERSON MILLER: Okay. But under 15?</p>

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10	<p>1 MS. VOGEL: We'll make sure it stays under 2 15. 3 CHAIRPERSON MILLER: Yeah, okay. 4 MR. KLINE: Yeah. 5 MS. VOGEL: Without a doubt. 6 MR. KLINE: And I think you can see, given 7 the description of the limited offerings and the 8 constraints of the concept, which is to keep it locally 9 sourced beers and wines, that necessarily creates a 10 limitation. And that's part of the concept and it's 11 part of the theme. So there will be a full range of 12 fresh, canned and frozen food items available. 13 And we have looked at your advisory opinions 14 in both the Walgreen's and the CVS cases. 15 CHAIRPERSON MILLER: Uh-huh. 16 MR. KLINE: And I think you can see from the 17 floor plan, there shouldn't be any question whatsoever 18 that the sale of fresh food items and grocery store 19 items predominates -- great exceeds the amount of shelf 20 space and floor space dedicated to beer and wine. So 21 that's an answer to that prong of the test. 22 In terms of alcohol being incidental, as</p>	12
11	<p>1 we've said, it'll -- it won't be more than 15 percent 2 as required by the statute. The property is in 3C3, 3 which is required by the statute and there will be a 4 new certificate of occupancy issued after January 1st 5 of 2000 [sic]. The last prong of the test, although, 6 in looking at the statute, most of the provisions have 7 five prongs. Some of them have six or seven. But the 8 six or -- yeah, the sixth and seventh are mostly 9 superfluous. 10 But the other prong is the Advisory 11 Neighborhood Commission being given great weight. We 12 had planned to have Mike Feldstein here today on behalf 13 of Dupont ANC. Obviously, he can't speak for the ANC. 14 It would be considered by them after the placards go up 15 but we fully expect that ANC 2B will fully endorse this 16 request for a full service grocery store license 17 consistent with the statute. But happy to entertain 18 any questions that you might have. 19 I think we've addressed all the prongs but 20 I'm sure some of you probably have questions. 21 CHAIRPERSON MILLER: Yes, Mr. Nophlin. 22 MR. NOPHLIN: Certainly this is a really good</p>	13
10	<p>1 presentation and proposal. Let me ask you -- maybe I'm 2 missing it -- what's the square footage? 3 MS. VOGEL: What you're looking at is about 4 5300 square feet. I have about 4700 below for back-of- 5 house operations. So in total, it's nearly 10,000 6 square feet. But there'll be 5000 -- around 5000 square 7 feet of retail space. 8 MR. NOPHLIN: Five thousand? 9 MS. VOGEL: Uh-huh. 10 MR. NOPHLIN: Was that the same as the 11 infrastructure was before you took over this -- 12 MS. VOGEL: When they -- when Safeway vacated 13 the premises, the building reoriented their lobby. So 14 it's possible that it's not identical but it's very 15 close. They changed the position of the entryway to 16 the main building but it's very close. 17 MR. NOPHLIN: Okay. One last item, since 18 we're talking about square footage, the loading part of 19 that, is that going to be on S Street or where would 20 your loading be? 21 MS. VOGEL: The loading dock. 22 MR. NOPHLIN: For trucks and that kind of</p>	12
11	<p>1 thing? 2 MS. VOGEL: It is on S Street. Yeah, and 3 it's our exclusive use. So that's not a loading dock 4 that's available to the rest of the building. It's 5 just for our purposes. 6 MR. NOPHLIN: So there won't be any hindrance 7 in terms of traffic? 8 MS. VOGEL: No. It's the same one that 9 Safeway used for four years. 10 MR. NOPHLIN: Okay. 11 MS. VOGEL: Yeah. 12 MR. NOPHLIN: Okay. 13 MS. VOGEL: That part hasn't changed at all. 14 MR. NOPHLIN: Okay. Thank you. 15 MS. VOGEL: Sure. 16 MR. NOPHLIN: Thank you, Madam Chair. 17 CHAIRPERSON MILLER: Others? 18 MR. BROOKS: Yes. I have a question. 19 CHAIRPERSON MILLER: Uh-huh. Uh-huh. 20 MR. BROOKS: Will you be carrying non-food 21 items? 22 MS. VOGEL: It is not my intention to carry</p>	13

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14	<p>1 non- food items but because of sort of the nature of 2 the business plan, which is to carry exclusively local 3 items, it is possible that in the deep, dark winter 4 months, I'm going to have less food available to me 5 than I wish I had to sell. So I may need to take up 6 some of the space in the retail area with things like, 7 you know, artisanally made cutting boards and that sort 8 of thing, food accompaniment items, but that would be 9 it.</p> <p>10 MR. BROOKS: Okay. Things like flour and 11 baking soda and --</p> <p>12 MS. VOGEL: Oh, things like -- yeah, sure -- 13 flour and baking soda.</p> <p>14 MR. BROOKS: Stuff like that?</p> <p>15 MS. VOGEL: Yeah.</p> <p>16 MR. BROOKS: Okay.</p> <p>17 MS. VOGEL: I thought you meant, like, non- 18 consumables.</p> <p>19 MR. BROOKS: Yeah, well, even that -- yeah, 20 and let's go -- let's go to that. So non-consumables, 21 I mean --</p> <p>22 MS. VOGEL: So the extent of the non-</p>	16
15	<p>1 consumables would again be things that you would be 2 likely to find a farmer's market, so, you know --</p> <p>3 MR. BROOKS: Okay.</p> <p>4 MS. VOGEL: -- handmade wood products -</p> <p>5 MR. BROOKS: I see.</p> <p>6 MS. VOGEL: -- that sort of thing. But it is 7 -- I would prefer to not sell those. I'd rather pack 8 my space with all food. But if, in the winter months, 9 I'm not able to do so for production reasons, there's a 10 possibility we might end up trying to take up some 11 space with that sort of thing. But it would be a very 12 limited seasonal reality.</p> <p>13 MR. BROOKS: Okay. So things like detergents 14 and soaps and different thing --</p> <p>15 MS. VOGEL: No detergent, no soap --</p> <p>16 MR. BROOKS: -- you wouldn't have nothing 17 like that?</p> <p>18 MS. VOGEL: -- no houseware.</p> <p>19 MR. BROOKS: And dog food, cat food --</p> <p>20 MS. VOGEL: No dog food, no paperware, 21 nothing like that.</p> <p>22 MR. BROOKS: Okay. All right.</p>	17
14	<p>1 MS. VOGEL: It's just too small of a space. 2 This is, you know, it's a fairly limited grocery store 3 in itself because there are things I cannot sell 4 because I can't get them locally, bananas and citrus, 5 that sort of thing. So I certainly wouldn't want to 6 take up shelf space with things like detergent.</p> <p>7 MR. BROOKS: And so what kind of fruit would 8 you be carrying? Is it apples in winter and --</p> <p>9 MS. VOGEL: Well, in the winter, 10 unfortunately, we have some regional limitations. So 11 in the winter it's things like kale, potatoes, root 12 vegetables, apples, some leafy greens, gourds, squash, 13 that sort of thing. But in the summer it's everything 14 you can imagine. I mean, we have a pretty wide swath. 15 The radius is, again, all the way from West Virginia, 16 all the way through New York. And it captures the 17 entirety of the whole state.</p> <p>18 So we have 45 or 50 different fruits and 19 vegetables in the summer.</p> <p>20 MR. BROOKS: Thank you, Madam Chair.</p> <p>21 CHAIRPERSON MILLER: Others? I don't know if 22 you said that while I might have been looking at</p>	16
15	<p>1 something, but did anyone ask you whether you're 2 carrying any canned foods?</p> <p>3 MS. VOGEL: They didn't but I certainly am.</p> <p>4 CHAIRPERSON MILLER: You are? Okay.</p> <p>5 MS. VOGEL: Yeah, if you look at the third 6 sheet, which is this one --</p> <p>7 CHAIRPERSON MILLER: Uh-huh. Okay.</p> <p>8 MS. VOGEL: -- this shows you the grocery 9 space. So all of those shelves will have, you know, 10 shelf stable grocery items on them. So not necessarily 11 canned, you know, Dole pineapple or something like 12 that, but you certainly would see, you know, a 13 Virginia-made plum chutney on the shelf or, you know, 14 Gordy's Pickle Jar delicious chili pickle spears maybe 15 on the jar.</p> <p>16 So there will be food in cans, but they won't 17 necessarily be what you're used to seeing in a grocery 18 store.</p> <p>19 CHAIRPERSON MILLER: I think this is an 20 amazing concept. I really think it's neat.</p> <p>21 MS. VOGEL: Thank you.</p> <p>22 CHAIRPERSON MILLER: They're very lucky, the</p>	17

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18	<p>1 people that live in Dupont Circle. I go to the Dupont 2 Circle Farm Market. 3 MS. VOGEL: Yeah. 4 CHAIRPERSON MILLER: Do you know that they 5 brew beer in the White House? 6 MS. VOGEL: I do know that. 7 CHAIRPERSON MILLER: Are they going to -- 8 you're going to get any beer from them? 9 MS. VOGEL: I have actually -- I work part- 10 time for a brewery in Northern Virginia called Port 11 City. And I understand through those channels that 12 they are working with a bottler. So it's not 13 completely improbable. 14 CHAIRPERSON MILLER: It's pretty local. 15 MS. VOGEL: It's a honey wheat and they're 16 using honey from the White House apiary. 17 CHAIRPERSON MILLER: Right. 18 MS. VOGEL: Is that the coolest? 19 CHAIRPERSON MILLER: Oh, you can get their 20 honey too. Right. 21 MS. VOGEL: Oh, totally. 22 CHAIRPERSON MILLER: Okay. I was just</p>	20	<p>1 week in my store. 2 CHAIRPERSON MILLER: Okay. 3 MS. VOGEL: But I love the Freshfarm folks. 4 CHAIRPERSON MILLER: Right. 5 MS. VOGEL: And I want to promote their 6 markets, all 17 of them. 7 CHAIRPERSON MILLER: Okay. 8 MS. VOGEL: So I'm hoping to -- and I've been 9 actually developing the concept closely with them. And 10 I'm hoping to do a lot of sort of cross-marketing with 11 them where, you know, I may give our bags to the 12 farmers at their markets so that they don't have to pay 13 for the plastic bags and in return, people are walking 14 around the markets with my bags. 15 CHAIRPERSON MILLER: Uh-huh. 16 MS. VOGEL: Or, you know, we might do cooking 17 demos with some of those vendors. They've driven, you 18 know, from far away -- you know, Boone, West Virginia, 19 for instance, to be at the market on a Sunday. Well, 20 let's get them a double bang for their buck and bring 21 them into the store and introduce them to more 22 customers after the market's closed. So it is</p>
19	<p>1 wondering, and did you model this off of another market 2 that's similar somewhere else in the country or just -- 3 MS. VOGEL: Nope. 4 CHAIRPERSON MILLER: -- put it together? You 5 did -- 6 MS. VOGEL: This is sort of an aggregation of 7 concepts I've been developing mentally for a period of 8 decades. And Dupont just seemed to be the perfect 9 place for this particular concept. 10 CHAIRPERSON MILLER: Okay. You're going to 11 be open on Sundays if you -- if you get your license, I 12 mean? 13 MS. VOGEL: Yes. 14 CHAIRPERSON MILLER: You will? So you'll 15 compete with the Farm Market? 16 MS. VOGEL: Well, there are two ways to look 17 at that. I don't intend to compete with the market. 18 What I'd rather do is magnify their business 19 opportunities. 20 CHAIRPERSON MILLER: Right. 21 MS. VOGEL: So you will have essentially all 22 the same vendors selling their products seven days a</p>	21	<p>1 absolutely not my intention to compete with the market. 2 CHAIRPERSON MILLER: Right, right, right. And 3 what happened with the ANC? I want to say that we did 4 invite the ANC to this fact finding hearing. 5 MS. VOGEL: Yeah, Mike is sick. I got an 6 email from him a few hours ago. He just woke up ill 7 and couldn't make it. 8 CHAIRPERSON MILLER: Okay. 9 MS. VOGEL: Uh-huh. 10 CHAIRPERSON MILLER: But they -- you have 11 indication that the ANC is in support? 12 MS. VOGEL: Absolutely. 13 MR. KLINE: Yeah, we have indication that 14 they're in strong support and are looking for our 15 placards to go up so we can formally go before them -- 16 CHAIRPERSON MILLER: Okay. 17 MR. KLINE: -- and ask them to endorse it. 18 CHAIRPERSON MILLER: Okay, okay. I don't 19 have any questions. Mr. Silverstein? 20 MR. SILVERSTEIN: What is -- what is your 21 time frame, Ms. Vogel? 22 MS. VOGEL: So we actually just finished</p>

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22	<p>1 demolition today. And I'm hoping to open Earth Day 2 weekend, which is mid-April, so the weekend of April 3 20th.</p> <p>4 CHAIRPERSON MILLER: More questions? Anything 5 else you want to tell us?</p> <p>6 MR. KLINE: No. Just in closing, I would 7 hope that the presentation that you've heard today 8 makes it unquestionable in your minds that this is a 9 full service supermarket and as contemplated by the 10 statute and we would request that you urge staff to 11 issue placards as soon as possible so that we can move 12 forward with the licensing process.</p> <p>13 CHAIRPERSON MILLER: Okay. And I think we're 14 ready to address some of that. You originally filed a 15 motion that, you know, you allow -- we allow placarding 16 to go forward earlier. And it was just last week on 17 our agenda. So we decided that it made the most sense 18 since your fact finding was today to wait for your fact 19 finding.</p> <p>20 MR. KLINE: Sure.</p> <p>21 CHAIRPERSON MILLER: So I would say that 22 based on the documents you put in the record and the --</p>	24	<p>1 believe it was from Mr. Kline.</p> <p>2 MR. KLINE: Yes. There was a letter from me 3 and --</p> <p>4 MR. ALBERTI: Yes, it was.</p> <p>5 MR. KLINE: -- a copy of the business plan.</p> <p>6 MR. ALBERTI: Yes. And so we have that but 7 we haven't discussed that here today. I -- and given 8 the time line of next April, I understand the need to 9 move forward quickly, but I think there's sufficient 10 time. So I would rather bear on the side of caution 11 and doing due diligence. And my preference would be to 12 take this under advisement, although, I am sensitive to 13 the timing issues and I'm -- I found this -- I found 14 this presentation very convincing and the materials 15 that Mr. Kline gave us very helpful.</p> <p>16 And I've taken a look at those. And at this 17 point, I don't have any serious doubts but I think it 18 would be advisable to take this - the Board to discuss 19 this further.</p> <p>20 CHAIRPERSON MILLER: All right.</p> <p>21 MS. VOGEL: Could I -- could I say something 22 quickly? Is that allowed?</p>
23	<p>1 and the test -- and your statements today, that to me 2 it looks clearly like a full service grocery store 3 under both the statute and the Walgreen's opinion. The 4 primary purpose is clearly the sales -- full range of 5 fresh, canned or frozen food. The alcohol's going to 6 be incidental. And great shelf space is dedicated to 7 food than the other products.</p> <p>8 So I would be in -- I would be in favor of 9 presenting a motion if we need one to allow the 10 placarding to go forward now. Do others want to make a 11 comment on that or on anything?</p> <p>12 MR. SILVERSTEIN: I would second that --</p> <p>13 MR. NOPHLIN: I second that.</p> <p>14 MR. SILVERSTEIN: -- Madam Chair.</p> <p>15 CHAIRPERSON MILLER: Okay.</p> <p>16 MR. ALBERTI: Madam Chair, I think it would 17 be most appropriate for us to take this under 18 advisement. I think we have material, which we haven't 19 discussed today -- I mean, in length -- is the material 20 that was submitted to us last week -- was on our agenda 21 -- was in our agenda package last week from Glen 22 Gardens Market [sic] and the letter from Mr. Kline. I</p>	25	<p>1 CHAIRPERSON MILLER: Okay. Uh-huh.</p> <p>2 MS. VOGEL: As certainly appreciating and 3 understanding your need to review the data, if we are 4 going to move forward with construction and were denied 5 the license, we'd obviously want to change our plans to 6 supplant the, you know, previously delegated beer and 7 wine retail space to something else. So I would just 8 urge you to move forward expeditiously if at all 9 possible, so that when we start construction, we know 10 exactly what we want to build.</p> <p>11 CHAIRPERSON MILLER: Others? I would just 12 like to -- oh, go ahead.</p> <p>13 MR. NOPHLIN: No, go ahead, Silverstein.</p> <p>14 CHAIRPERSON MILLER: Go ahead.</p> <p>15 MR. SILVERSTEIN: Madam Chair, I --</p> <p>16 CHAIRPERSON MILLER: Uh-huh.</p> <p>17 MR. SILVERSTEIN: -- I'd like to agree with 18 the chair. I'm fully sympathetic with Board Member 19 Alberti but I don't believe this is even a close call. 20 I don't think there -- I don't think I've ever seen a 21 store in the -- in the district area that is more of a 22 grocery store than this is, where you can't even buy</p>

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26	<p>1 detergent. And it certainly is keeping clearly prima 2 facie case here with the -- not only the spirit 3 (inaudible). 4 And if this will help move this thing 5 forward, I just don't see anything to be truly gained 6 other than form by delaying this process 90 days. If 7 there was -- if there was any doubt -- if it was any 8 way that this was a close case -- a close call, I would 9 -- I would agree with my friend, Board Member Alberti. 10 But in this case, I believe that the evidence is so 11 clear. And I know from my own involvement in the 12 neighborhood that there is such strong support and such 13 an outpouring of joy when it was reported that there 14 was going to be a grocery store there and people didn't 15 have to walk to 17th Street anymore. 16 Anything that we can do to move this forward 17 within the letter and the spirit of the law without 18 unnecessary delay -- I just -- I fully respect my Board 19 member's disagreement but I feel the best move here is 20 just to go forward, just do it. Thank you, Madam 21 Chair. 22 CHAIRPERSON MILLER: Okay. Mr. Nophlin.</p>	28	<p>1 to start construction. 2 MR. KLINE: And if I may add to that, of 3 course -- 4 MR. NOPHLIN: Right. 5 MR. KLINE: -- from my standpoint and my 6 department and yours too, we've got the liquor license 7 in process. We don't anticipate anyone's going to have 8 any objection to this in the neighborhood. Everything 9 we've heard indicates that it's all positive but 10 there's always that possibility. So before Ms. Vogel 11 commits funds to the area of the store that would be 12 outfitted for the -- for the beer and wine shelves, she 13 needs to know that she's not going to have an issue. 14 So we're anxious to get the time table 15 moving. We've lost a little bit of time because a lot 16 of us were away in August, including myself, and the 17 Board was on recess. So we are anxious to move it 18 forward. 19 MR. NOPHLIN: And Mr. Kline, may I ask you a 20 question? You said there's no -- there's -- the ANCs 21 sort of agree that this is okay. The person didn't 22 come today.</p>
27	<p>1 MR. NOPHLIN: Madam Chair, yes. Would you 2 please give us some time tables that you're now 3 prepared for the scheduled program already? 4 MS. VOGEL: So we did the demolition this 5 week because, frankly, the Safeway drawings of the 6 property weren't accurate. And when I'm placing orders 7 for things like very expensive refrigeration coolers, 8 we need to be sure they're going to fit. Because for 9 the most part, they take between 8 and 12 weeks to 10 construct custom. And it would be a nightmare if we 11 were ready to open and these things arrived and they 12 didn't fit in the space. 13 So we did some demolition just to pull down 14 some existing drywall and stuff like that so that I 15 could place the refrigeration cooler orders this week. 16 The public space and construction permit documents are 17 being submitted on Monday morning. We have an 18 expediter and we're anticipating about a six-week 19 permitting process there. The general contractor has 20 been hired, is in place, and we have all of our 21 materials ready to go. 22 So as soon as that permit issues, we're ready</p>	29	<p>1 MR. KLINE: Right. The single-member 2 district commissioner is in support. As the Board 3 knows, that means little because they have no voice by 4 themselves. 5 MR. NOPHLIN: Right. 6 MR. KLINE: They speak through the ANC. 7 Typically -- and I believe this is 2B's policy and Mr. 8 Silverstein, wearing his other hat, could certainly 9 verify that, but typically will not entertain a formal 10 resolution until the placard's go up. So they can -- 11 they can have all sorts of expressions of love. But 12 before -- until we go before them with the placards up 13 and they take a formal position, it doesn't mean a 14 whole lot. 15 Again, we don't anticipate any problem in the 16 world. I mean, I think that the reaction that Danielle 17 has gotten overwhelmingly in the community is similar 18 to what we've heard from those of you that have -- that 19 have spoken about it. So we don't see any problem but 20 when you start committing funds and spending money, you 21 want to do more than be reasonably confident that 22 you're not going to have any problem.</p>

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30	<p>1 You want to know you're not going to have any 2 problem, which means getting through the placarding 3 period and the protest deadline period without a 4 protest or with any potential protests resolved. 5 MR. NOPHLIN: So there's -- there was a lot 6 of advertising in the community about your store, that 7 you'll open? 8 MS. VOGEL: There was an advertising -- a 9 couple of the bloggers picked up on the -- my signing 10 of the lease in June. And so there were a couple of 11 items floating around the internet that generated quite 12 a bit of flutter on the waves. So I've actually been 13 receiving lots of emails from folks that live within 14 the community, expressing, you know, preferences for 15 certain products or their excitement about my arrival, 16 that sort of thing. 17 MR. NOPHLIN: Madam Chair, therefore, I agree 18 with you. 19 CHAIRPERSON MILLER: Okay. I -- 20 MR. NOPHLIN: Thank you. 21 CHAIRPERSON MILLER: Okay. I think there are 22 two ways to approach this. And one is that there's</p>	32	<p>1 MR. ALBERTI: -- my recommendation to my 2 fellow Board members is to make your decision first, 3 before you allow them to go forward with the 4 application process. Because that, I believe, is the 5 proper steps that should be taken. 6 CHAIRPERSON MILLER: Okay. Then I would move 7 that we determine that they are a full service grocery 8 store based on the evidence that's been presented to us 9 in the record. We -- I did have this -- I think this 10 was the motion that was on the table. And then we got 11 off into discussion. So I want to table that first 12 motion and then go forward again that -- I move that we 13 determine they are a full service grocery store and 14 that they then be allowed to go forward with their 15 placarding. 16 Do I have a second? 17 MR. NOPHLIN: Second. 18 CHAIRPERSON MILLER: Okay. Any other 19 comments? 20 (No audible response.) 21 CHAIRPERSON MILLER: Okay. There's a motion 22 before us that's been seconded by Mr. Nophlin. All</p>
31	<p>1 sufficient, very convincing information in the record 2 now that this would qualify as a full service grocery 3 without finding that it's a full service grocery today 4 and leaving the record open for the ANC's opinion later 5 and just allowing the applicant to go forward with the 6 placarding. I mean, I think we should certainly not 7 delay their going forward with the placarding. 8 So we could either go that way or if people 9 are convinced today that it's a full service grocery 10 store, we could -- we could go that other -- that next 11 level. But I think the most important thing is that 12 they be able to go forward today with the placarding at 13 least. Yeah, Mr. Alberti. 14 MR. ALBERTI: I think it's technically risky 15 to say, "Go forward with the placard -- with the 16 placarding," without having reached our decision. I 17 mean, the decision that we would be making would be, 18 are they a qualified applicant? So allowing it to go 19 forward with the application process before we made our 20 decision would be sort of like putting the horse -- you 21 know, the cart before the horse. So -- 22 CHAIRPERSON MILLER: Okay.</p>	33	<p>1 those in favor, say aye? 2 (Chorus of ayes.) 3 CHAIRPERSON MILLER: All those opposed? 4 MR. ALBERTI: I'll abstain. 5 CHAIRPERSON MILLER: All those abstaining? 6 (No audible response.) 7 CHAIRPERSON MILLER: Okay. Then the vote is 8 4-0-1. Okay. 9 MR. KLINE: Great. Thank you. 10 CHAIRPERSON MILLER: Thank you. Sounds 11 great. 12 MS. VOGEL: Thank you for your time. 13 CHAIRPERSON MILLER: Okay. 14 MS. VOGEL: I'll see you on Sunday at the 15 market. 16 CHAIRPERSON MILLER: Okay. 17 (WHEREUPON, at 4:36 p.m., the hearing was 18 concluded.) 19 20 21 22</p>

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1 CERTIFICATE OF NOTARY PUBLIC

2 I, BRADLEY ANGLIN, the officer before whom the
3 foregoing hearing was taken, do hereby certify that the
4 testimony appearing in the foregoing transcript was
5 recorded by me and thereafter reduced to typewriting
6 under my direction; that said transcription is a true
7 record of the testimony given by said parties; that I
8 am neither counsel for, related to, nor employed by any
9 of the parties to the action in which this was taken;
10 and, further, that I am not a relative or employee of
11 any counsel or attorney employed by the parties hereto,
12 nor financially or otherwise interested in the outcome
13 of this action.

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BRADLEY ANGLIN
Notary Public in and for the
District of Columbia

35

1 CERTIFICATE OF TRANSCRIPTION

2
3 I, MIRANDA PENNACHI, hereby certify that I am not
4 the Court Reporter who reported the following
5 proceeding and that I have typed the transcript of this
6 proceeding using the Court Reporter's notes and
7 recordings. The foregoing/attached transcript is a
8 true, correct and complete transcription of said
9 proceeding.

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Date MIRANDA PENNACHI
 Transcriptionist

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