

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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1 P R O C E E D I N G S

2 4:06 p.m.

3 CHAIRPERSON MILLER: All right. We are back  
4 on the record with a fact finding hearing on Glen's  
5 Garden Market, located at 2001 S Street, N.W., License  
6 No. 90082. This is a fact finding hearing regarding  
7 whether or not this business will qualify as a full-  
8 service supermarket. I think I'm just going to turn it  
9 over to you all.

10 Would you introduce yourselves for the  
11 record?

12 MR. KLINE: Sure. Andrew Kline on behalf of  
13 the applicant.

14 MS. VOGEL: I'm Danielle Vogel. I own Glen's  
15 Garden Market.

16 CHAIRPERSON MILLER: What's your last name?

17 MS. VOGEL: Vogel, V-O-G-E-L.

18 CHAIRPERSON MILLER: Vogel? Okay. You're  
19 the owner?

20 MR. ALBERTI: Are you the owner?

21 MS. VOGEL: Yes.

22 MR. KLINE: Yes.

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1 MR. ALBERTI: Okay.

2 MR. KLINE: She is the owner. Madam Chair  
3 and members of the Board, thank you for hearing us this  
4 afternoon. This is an application that falls under the  
5 full-service grocery store exemption to various  
6 restrictions and provisions in the statute, including  
7 the moratorium and the restriction on distances, the  
8 restrictions, which I think the Board was fully aware  
9 of.

10 And the issue is, as the Board knows, will  
11 this be a full-service grocery store? To give you a  
12 little bit of background, this location was previously  
13 a Townhouse Safeway in Dupont Circle, which was  
14 lovingly referred to as, "The Soviet Safeway," because  
15 it was small and its shelves were rather sparse, I  
16 think. So that's what it was named for many years.

17 And Ms. Vogel wants -- I don't even want to  
18 say, "Wants to restore this location to this former  
19 glory because," because those of you that were familiar  
20 with it, it wasn't that glorious. But this will be.  
21 You have in front of you a little booklet that gives  
22 you both the floor plan and some renderings as to what

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1 the store will look like. I'm going to let Danielle  
2 tell you a little bit about her concept and what she  
3 hopes to do there. And then we'll talk about some of  
4 the technical requirements. Danielle?

5 MS. VOGEL: Hey there. Thank you for your  
6 time today. I really appreciate it. So the concept  
7 here is a full-service, all-local grocery store, which  
8 means that not only will be -- we be offering  
9 everything from groceries, prepared foods to dairy  
10 products, produce, you know, cheese and charcuterie and  
11 all of the things that you're used to seeing at a  
12 grocery store.

13 But everything I sell will be sourced from  
14 the states of the Chesapeake Bay Watershed. So it  
15 really is going to expand upon the notion of the  
16 superduper popular farmer's markets that we're seeing  
17 all around the area but on a much more convenient  
18 timeframe. So the idea is that people started to seek  
19 these products out and they're excited about knowing  
20 their farmers and knowing where their food comes from.

21 But oftentimes, it's difficult to get to a  
22 farmer's market at 3:00 p.m. on a Wednesday, for

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1 instance. So the idea here is to really bring all of  
2 those wonderful products into a single space and make  
3 them available to the residents of Dupont Circle.

4 MR. KLINE: And in terms of the beer and  
5 wine, even the beer and wine will be locally sourced.  
6 Danielle tells me that and you'll see from the drawing,  
7 which we'll -- or the layout, which we'll get to in a  
8 minute, that there's very limited space for beer and  
9 wine. And there's a reason for that in that there is  
10 not that much wine that's produced in Virginia and  
11 Maryland and the other states that we're talking about  
12 and not that much beer.

13 So in order to stay true to her theme, the  
14 selections will necessarily be restricted. And you'll  
15 see from the -- from the layout, there's a very little  
16 bit of space devoted to beer and wine.

17 MS. VOGEL: If you take a look at the floor  
18 plan, which is the first page of the presentation,  
19 right to the left of where you see that it says,  
20 "Welcome," you see beer and wine off to the far left.  
21 That's the only beer and wine display area we're going  
22 to have in the store. The long rectangle with circles

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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,

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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

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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

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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?

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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

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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

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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

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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

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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.

10 MR. BROOKS: Okay. Things like flour and  
11 baking soda and --

12 MS. VOGEL: Oh, things like -- yeah, sure --  
13 flour and baking soda.

14 MR. BROOKS: Stuff like that?

15 MS. VOGEL: Yeah.

16 MR. BROOKS: Okay.

17 MS. VOGEL: I thought you meant, like, non-  
18 consumables.

19 MR. BROOKS: Yeah, well, even that -- yeah,  
20 and let's go -- let's go to that. So non-consumables,  
21 I mean --

22 MS. VOGEL: So the extent of the non-

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1 consumables would again be things that you would be  
2 likely to find a farmer's market, so, you know --

3 MR. BROOKS: Okay.

4 MS. VOGEL: -- handmade wood products -

5 MR. BROOKS: I see.

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.

13 MR. BROOKS: Okay. So things like detergents  
14 and soaps and different thing --

15 MS. VOGEL: No detergent, no soap --

16 MR. BROOKS: -- you wouldn't have nothing  
17 like that?

18 MS. VOGEL: -- no houseware.

19 MR. BROOKS: And dog food, cat food --

20 MS. VOGEL: No dog food, no paperware,  
21 nothing like that.

22 MR. BROOKS: Okay. All right.

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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.

7 MR. BROOKS: And so what kind of fruit would  
8 you be carrying? Is it apples in winter and --

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.

18 So we have 45 or 50 different fruits and  
19 vegetables in the summer.

20 MR. BROOKS: Thank you, Madam Chair.

21 CHAIRPERSON MILLER: Others? I don't know if  
22 you said that while I might have been looking at

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1 something, but did anyone ask you whether you're  
2 carrying any canned foods?

3 MS. VOGEL: They didn't but I certainly am.

4 CHAIRPERSON MILLER: You are? Okay.

5 MS. VOGEL: Yeah, if you look at the third  
6 sheet, which is this one --

7 CHAIRPERSON MILLER: Uh-huh. Okay.

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.

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.

19 CHAIRPERSON MILLER: I think this is an  
20 amazing concept. I really think it's neat.

21 MS. VOGEL: Thank you.

22 CHAIRPERSON MILLER: They're very lucky, the

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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

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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

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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

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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

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1 demolition today. And I'm hoping to open Earth Day  
2 weekend, which is mid-April, so the weekend of April  
3 20th.

4 CHAIRPERSON MILLER: More questions? Anything  
5 else you want to tell us?

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.

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.

20 MR. KLINE: Sure.

21 CHAIRPERSON MILLER: So I would say that  
22 based on the documents you put in the record and the --

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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.

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?

12           MR. SILVERSTEIN: I would second that --

13           MR. NOPHLIN: I second that.

14           MR. SILVERSTEIN: -- Madam Chair.

15           CHAIRPERSON MILLER: Okay.

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

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1 believe it was from Mr. Kline.

2 MR. KLINE: Yes. There was a letter from me  
3 and --

4 MR. ALBERTI: Yes, it was.

5 MR. KLINE: -- a copy of the business plan.

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.

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.

20 CHAIRPERSON MILLER: All right.

21 MS. VOGEL: Could I -- could I say something  
22 quickly? Is that allowed?

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1 CHAIRPERSON MILLER: Okay. Uh-huh.

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.

11 CHAIRPERSON MILLER: Others? I would just  
12 like to -- oh, go ahead.

13 MR. NOPHLIN: No, go ahead, Silverstein.

14 CHAIRPERSON MILLER: Go ahead.

15 MR. SILVERSTEIN: Madam Chair, I --

16 CHAIRPERSON MILLER: Uh-huh.

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

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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.

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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

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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.

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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.

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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

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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.

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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

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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.)

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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

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Notary Public in and for the

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District of Columbia

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CERTIFICATE OF TRANSCRIPTION

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

\_\_\_\_\_  
Date  
MIRANDA PENNACHI  
Transcriptionist

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<hr/> <p>1</p> <hr/> <p>10,000 12:5</p> <p>12 27:9</p> <p>14th 1:12</p> <p>15 9:12,22 10:2 11:1</p> <p>16-foot 7:7</p> <p>17 20:6</p> <p>17th 26:15</p> <p>18-foot 7:14</p> <p>19 1:10</p> <p>1st 11:4</p> <hr/> <p>2</p> <hr/> <p>2000 1:12 11:5</p> <p>2001 1:6 2:5</p> <p>2012 1:10</p> <p>20th 22:3</p> <p>2B 1:8 11:15</p> <p>2B's 29:7</p> <hr/> <p>3</p> <hr/> <p>3:00 4:22</p> <p>3C3 11:2</p> <hr/> <p>4</p> <hr/> <p>4:06 2:2</p> <p>4:36 33:17</p> <p>4-0-1 33:8</p> <p>45 16:18</p> <p>4700 12:4</p> <hr/> <p>5</p> <hr/> <p>50 16:18</p> <p>5000 12:6</p>	<p>5300 12:4</p> <hr/> <p>8</p> <hr/> <p>8 27:9</p> <hr/> <p>9</p> <hr/> <p>90 26:6</p> <p>90082 1:7 2:6</p> <hr/> <p>A</p> <hr/> <p>able 7:19 9:9 15:9 31:12</p> <p>absolutely 21:1,12</p> <p>abstain 33:4</p> <p>abstaining 33:5</p> <p>accompaniment 14:8</p> <p>accurate 27:6</p> <p>action 34:9,13</p> <p>actually 18:9 20:9 21:22 30:12</p> <p>add 28:2</p> <p>addition 9:13</p> <p>address 22:14</p> <p>addressed 11:19</p> <p>advertising 30:6,8</p> <p>advisable 24:18</p> <p>advisement 23:18 24:12</p> <p>advisory 10:13 11:10</p> <p>afternoon 3:4</p> <p>agenda 22:17 23:20,21</p> <p>aggregation 19:6</p> <p>ago 21:6</p>	<p>ahead 25:12,13,14</p> <p>Alberti 1:16 2:20 3:1 23:16 24:4,6 25:19 26:9 31:13,14 32:1 33:4</p> <p>alcohol 9:11 10:22</p> <p>Alcoholic 1:2,11,12</p> <p>alcohol's 23:5</p> <p>all-local 4:7</p> <p>allow 22:15 23:9 32:3</p> <p>allowed 24:22 32:14</p> <p>allowing 31:5,18</p> <p>already 27:3</p> <p>am 17:3 24:12 34:8,10 35:3</p> <p>amazing 17:20</p> <p>amount 6:10 9:10,11 10:19</p> <p>ANC 1:8 11:13,15 21:3,4,11 29:6</p> <p>ANCs 28:20</p> <p>ANC's 31:4</p> <p>Andrew 2:12</p> <p>ANGLIN 34:2,18</p> <p>answer 10:21</p> <p>anticipate 28:7 29:15</p> <p>anticipating 27:18</p> <p>anxious 28:14,17</p> <p>anymore 26:15</p> <p>anyone 17:1</p> <p>anyone's 28:7</p>	<p>anything 22:4 23:11 26:5,16</p> <p>apiary 18:16</p> <p>appearing 34:4</p> <p>apples 16:8,12</p> <p>applicant 2:13 31:5,18</p> <p>application 1:8 3:4 31:19 32:4</p> <p>appreciate 4:6</p> <p>appreciating 25:2</p> <p>approach 30:22</p> <p>appropriate 23:17</p> <p>April 22:2 24:8</p> <p>area 4:17 5:21 8:16,20 14:6 25:21 28:11</p> <p>aren't 6:7</p> <p>arrival 30:15</p> <p>arrived 6:6 27:11</p> <p>artisanally 14:7</p> <p>attorney 34:11</p> <p>audible 32:20 33:6</p> <p>August 28:16</p> <p>available 5:3 6:7 10:12 13:4 14:4</p> <p>aware 3:8</p> <p>away 20:18 28:16</p> <p>aye 33:1</p> <p>eyes 33:2</p> <hr/> <p>B</p> <hr/> <p>background 3:12 8:13 9:1</p> <p>back-of 12:4</p>
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<p><b>bagged</b> 7:3  <b>bags</b> 20:11,13,14  <b>baking</b> 14:11,13  <b>bananas</b> 16:4  <b>bang</b> 20:20  <b>bar</b> 6:1,8  <b>based</b> 22:22 32:8  <b>Bay</b> 4:14  <b>bear</b> 24:10  <b>beer</b>              5:4,5,8,12,16,20,              21 6:8 9:11              10:20 18:5,8              25:6 28:12  <b>beer-driven</b> 6:8  <b>beers</b> 10:9  <b>beg</b> 9:15  <b>behalf</b> 2:12 11:12  <b>believe</b> 24:1 25:19              26:10 29:7 32:4  <b>best</b> 26:19  <b>Beverage</b>              1:2,11,12  <b>bit</b> 3:12 4:2 5:16              28:15 30:12  <b>bloggers</b> 30:9  <b>blood</b> 8:12  <b>Board</b> 1:2,12              3:3,8,10 8:12              24:18 25:18              26:9,18 28:17              29:2 32:2  <b>boards</b> 14:7  <b>body</b> 8:8  <b>booklet</b> 3:21  <b>Boone</b> 20:18</p>	<p><b>bottler</b> 18:12  <b>BRADLEY</b>              34:2,18  <b>brew</b> 18:5  <b>brewery</b> 18:10  <b>bring</b> 5:1 20:20  <b>BROOKS</b> 1:16              13:18,20              14:10,14,16,19              15:3,5,13,16,19,              22 16:7,20  <b>buck</b> 20:20  <b>build</b> 25:10  <b>building</b> 1:12              12:13,16 13:4  <b>business</b> 2:7              8:11,13 9:4 14:2              19:18 24:5  <b>butter</b> 7:5  <b>buy</b> 25:22</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p><b>CALVIN</b> 1:17  <b>canned</b> 10:12              17:2,11 23:5  <b>cans</b> 17:16  <b>captures</b> 16:16  <b>carry</b> 13:22 14:2  <b>carrying</b> 13:20              16:8 17:2  <b>cart</b> 31:21  <b>case</b> 26:2,8,10  <b>cases</b> 10:14  <b>cat</b> 15:19  <b>caution</b> 24:10  <b>certain</b> 30:15</p>	<p><b>certainly</b> 9:11              11:22 16:5              17:3,12 25:2              26:1 29:8 31:6  <b>certificate</b> 11:4              34:1 35:1  <b>certify</b> 34:3 35:3  <b>chain</b> 8:15,17,19  <b>chains</b> 8:19  <b>chair</b> 3:2 13:16              16:20 23:14,16              25:15,18 26:21              27:1 30:17  <b>Chairperson</b>              1:13,15              2:3,16,18              9:14,16,20,22              10:3,15 11:21              13:17,19 16:21              17:4,7,19,22              18:4,7,14,17,19,              22 19:4,10,14,20              20:2,4,7,15              21:2,8,10,16,18              22:4,13,21 23:15              24:20              25:1,11,14,16              26:22 30:19,21              31:22 32:6,18,21              33:3,5,7,10,13,1              6  <b>change</b> 25:5  <b>changed</b> 12:15              13:13  <b>changes</b> 7:12  <b>channels</b> 18:11  <b>charcuterie</b> 4:10              7:14  <b>cheese</b> 4:10              7:14,15</p>	<p><b>chef</b> 7:8  <b>Chesapeake</b> 4:14  <b>chili</b> 17:14  <b>Chorus</b> 33:2  <b>chutney</b> 17:13  <b>Circle</b> 3:13 5:3              18:1,2  <b>circles</b> 5:22  <b>citrus</b> 16:4  <b>City</b> 18:11  <b>clear</b> 26:11  <b>clearly</b> 23:2,4 26:1  <b>close</b> 12:15,16              25:19 26:8  <b>closed</b> 20:22  <b>closely</b> 20:9  <b>closing</b> 22:6  <b>code</b> 8:21  <b>Columbia</b> 1:1              34:20  <b>comes</b> 4:20 7:15  <b>coming</b> 6:5  <b>comment</b> 23:11  <b>comments</b> 32:19  <b>Commission</b> 11:11  <b>commissioner</b>              29:2  <b>commits</b> 28:11  <b>committing</b> 29:20  <b>community</b> 6:1              29:17 30:6,14  <b>compete</b> 19:15,17              21:1  <b>competing</b> 8:17</p>
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