

CASINO REINVESTMENT DEVELOPMENT AUTHORITY  
LAND USE REGULATION AND ENFORCEMENT DIVISION  
PUBLIC HEARING

RE: 2015-06-1550 - Dock's Oyster House, Inc.

Thursday - July 16, 2015

CASINO REINVESTMENT DEVELOPMENT AUTHORITY  
PUBLIC HEARING, taken in the offices of CASINO  
REINVESTMENT DEVELOPMENT AUTHORITY, 15 South  
Pennsylvania Avenue, Atlantic City, New Jersey, before  
Karen Winkler, a Certified Court Reporter and Notary  
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1 APPEARANCES :

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LANCE B. LANDGRAF JR.,  
7 Director of Planning  
Hearing Officer

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RYKER, DANZIG, SCHERER, HYLAND  
& PERRETTI, LLP

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BY: SCOTT G. COLLINS, ESQUIRE  
Attorney for Casino Reinvestment  
14 Development Authority

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ROBERT REID,  
Land Use Regulation Enforcement Officer

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CHRISTINE A. COFONE, PP, AICP,  
COFONE CONSULTING GROUP, LLC

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1 APPEARANCES - CONTINUED:

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WILLIAM ENGLAND, PE, PP, CME,  
ADAMS, REHMANN & HEGGAN

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JOSEPH R. DOUGHERTY, ESQUIRE  
Attorney for Applicant

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1                   MR. LANDGRAF: I'll call the July 16th  
2 hearing back to order. We have actually third on  
3 our agenda -- as I'll state again, the second  
4 application for California Avenue Ventures, LLC has  
5 been tabled at this time and we'll bring up the  
6 applicant for Dock's Oyster House, application  
7 number 2015-06-1550. Mr. Dougherty?

8                   MR. DOUGHERTY: Good morning. For the  
9 record, Joe Dougherty here on behalf of Dock's  
10 Oyster House, Inc., the applicant for the  
11 application before you. The applicant, as you know,  
12 seeks preliminary and final site plan approval for a  
13 project located at 2405 -- primarily located at 2405  
14 Atlantic Avenue, Atlantic City block 279, lots 45,  
15 46 and 48 through 52.

16                   The applicant is a long-standing  
17 restaurant in Atlantic City. It's been in the city  
18 since 1897 and in this location since the late 1920s.  
19 It has expanded only once in this location and now it  
20 seeks to fairly substantially expand both the first  
21 floor dining and bar area and then add some second  
22 and partly third floor private/public dining  
23 availability.

24                   To do so, it needs a parking variance  
25 because of the properties that it commonly owns in

1 the rear of the building, the existing building are  
2 in a neighborhood zone, an R-3 district, and it needs  
3 a variance at least that Mr. Barnhart will talk about  
4 for the proposed signage. The picture you see before  
5 you and we'll enter as Exhibit 1 is an example of the  
6 signage that Dock's would like to recreate for the  
7 front of the building. This is a picture of the  
8 signage in about the 1950s and that's what it's  
9 looking to recreate on the front of the building  
10 replacing the projecting sign that's there. So I  
11 have here Chris Menchin from SOSH Architects who has  
12 been working on the project architecture and Jon  
13 Barnhart with Arthur Ponzio & Company. If I could  
14 have both of them sworn now.

15 MR. LANDGRAF: Before you do that, I'm  
16 going to ask Mr. Reid to comment on the public  
17 notice.

18 MR. REID: Yes. I reviewed the proof  
19 of service and everything is in order. We have  
20 jurisdiction to hear the application.

21 MR. LANDGRAF: Thank you.

22 MR. DOUGHERTY: Mr. Barnhart,  
23 Mr. Menchin.

24

25

1                   JON J. BARNHART and CHRISTOPHER M.  
2                   MENCHIN, sworn.

3  
4                   MR. LANDGRAF: We have Mr. Barnhart's  
5 information, but, Chris, why don't up put your  
6 credentials on the record?

7                   MR. MENCHIN: My name is Chris Menchin.  
8 I'm with SOSH Architects. Licensed professional for  
9 the past 18 years. I've been with SOCH for 17. I'm  
10 currently a principal in the firm. I've worked on  
11 projects with the Dougherty family previously. We  
12 have extensive knowledge of their operations as well  
13 as the building in question.

14                  MR. LANDGRAF: Thank you. We would  
15 accept him as an expert in the field of  
16 architecture.

17                  MR. DOUGHERTY: Thanks.

18                  MR. COLLINS: Just for Mr. Barnhart,  
19 he's appeared before this board previously.

20                  MR. BARNHART: I'm a licensed  
21 professional engineer and professional planner in  
22 the state of New Jersey. I've appeared before this  
23 board on many occasions.

24                  MR. LANDGRAF: I will stipulate to his  
25 qualifications.

1                   MR. MENCHIN: Good morning. So what  
2 we're looking at here is our initial floor plans for  
3 the proposed expansion. The existing building  
4 approximately in this location of the proposed plan.  
5                   We're obviously looking to do  
6 significant renovations of both the first and second  
7 floors of the space as well as an addition as  
8 described in the statement. What this consists of is  
9 the entrance on Atlantic Avenue will remain where it  
10 is. The entry into a larger bar area, the dining  
11 room, the expansion area to the left-hand side.  
12 Behind we have a core of bathrooms and an elevator as  
13 well as a larger kitchen in the back area. As noted,  
14 the existing kitchen has not been renovated since the  
15 1960s or so. So gives us a good opportunity to  
16 expand on the operation. We have access to second,  
17 third floors, open stair in the front and closed  
18 stair in the back. We have access to the back of the  
19 property which will be the proposed parking. On the  
20 second floor you come up the stairs. We have a  
21 smaller dining room with open space to below. So  
22 open communication, could be a little connection to  
23 the dining and the floor below. We have a private  
24 dining room we're proposing as well for particular  
25 parties and potential for overflow dining. Again, in

1 the center we have a core for vertical access as well  
2 as bathrooms and second floor kitchen that will help  
3 us serve the private dining area as well as the main  
4 dining room. Office and services are in the back for  
5 administrative uses. The third floor main stair in  
6 the center with the elevator as well. We have  
7 another private dining area. Could be used for  
8 overflow dining. There's a wine display in the back  
9 that could be used as a winetasting room and enhance  
10 the overall ambiance. There is -- the addition is  
11 only going -- the third floor is only along the  
12 addition primarily. The front part of it will be set  
13 back with a terrace space with outdoor seating. The  
14 remainder of the existing roof will be clear for  
15 potential mechanical uses and things like that. Some  
16 minor addition onto the existing roof for mechanical  
17 equipment, things that need to be enclosed.

18 That's basically the whole gist of  
19 the -- looking at the elevations, we included in this  
20 just an image of the existing building so you get an  
21 idea of the character of the building that currently  
22 exists. Our intent is to carry over a lot of that  
23 character into the new expansion.

24 As noted, the terrace is up on this  
25 level here. We're going to continue the brick along



1 the bottom of the facade and it will be painted,  
2 finished more or less the same character of the  
3 existing building. So this would be your Atlantic  
4 Avenue presentation. On the parking lot side, again,  
5 we're showing the terrace steps back, again, trying  
6 to maintain some of the character from the existing  
7 building carried around the corner with a series of  
8 windows.

9 One of the intents also in this area  
10 here is to create a billboard sign, nonilluminated.  
11 It would be just a graphic on the wall. We are still  
12 working with that elevation. We have some mechanical  
13 issues which we're working through, so this may  
14 change just a little bit. We are looking to have an  
15 identifying sign on the side of the parking lot.

16 Here we're showing based on a study of  
17 what the overall volume of the building would look  
18 like. So, again, this is your Atlantic Avenue and  
19 parking lot side. That's the basic outline.

20 MR. DOUGHERTY: Okay. Thanks.

21

22 (JON J. BARNHART, previously sworn.)

23

24 BY MR. DOUGHERTY:

25 Q. Mr. Barnhart?

1           A.       Yeah.

2           Q.       You or someone under your direction  
3 prepared the plans that were submitted in this  
4 application?

5           A.       Yes.

6           Q.       Can you describe the proposed  
7 development?

8           A.       Certainly. So I think everybody's  
9 familiar with the site in question, but we're here  
10 for an application this morning to expand an iconic  
11 use of the city of Atlantic City with the Dock's  
12 Oyster House. I'd venture to guess that almost  
13 everybody in the room has been here for dinner  
14 before, so you're probably very familiar with the  
15 site, but just to identify, Atlantic Avenue to the  
16 lower side of the exhibit, Georgia Avenue is the  
17 cross street. The existing Dock's facility is the  
18 white building you see there. You can see the  
19 Dock's canopy. Dock's has owned and utilized the  
20 adjacent asphalt parking lot for many years and  
21 they've been fortunate enough to acquire additional  
22 property over the last few years to allow them to  
23 move forward with an expansion. Additional property  
24 they acquired is in the rear area. You can see you  
25 have a real mixture of land use here. We are in the

1 heart of the NC-2 zone along Atlantic Avenue, but  
2 you get into the R-3 zone as you get back, go back  
3 along Georgia Avenue, as I recall, actually the  
4 zoning boundary allows this entire lot to stay  
5 within the NC-2 zone, so you actually have a lot  
6 that will be the discussion of our use variance this  
7 morning is actually surrounded on two sides by the  
8 NC-2, so it's kind of interesting the way that was  
9 done, but generally always follow lot lines.

10 What you also have and cut off a little  
11 bit here. You can see, although we're in an R-3,  
12 we're not in an R-3 district that's not accustomed  
13 to uses other than residential uses. We have a  
14 parking lot adjacent to us. And something that Joe  
15 told us that morning. It was torn down, the ground  
16 floor, that building itself had a retail use in it.  
17 So even the site that we're here requesting the use  
18 variance here this morning, at one time was a retail  
19 use. Joe explained it was a novelty store for a  
20 number of years. The site as existing, plus the  
21 acquired sites are approximately a half acre, little  
22 bit over 22,000 square feet in total land area. So  
23 the proposal is to maintain and renovate that brown  
24 shaded area right there in the middle. That's an  
25 existing 30-foot wide lot that's 100 feet deep.

1 MR. LANDGRAF: Jon, if you could  
2 identify what you're pointing to?

3 MR. BARNHART: I'm sorry. This is a  
4 rendered version of the site development plan that  
5 was submitted with the plan package. It's the  
6 second exhibit I'm speaking from. It's plan C-3  
7 from the site development package.

8 MR. LANDGRAF: Thank you.

9 MR. BARNHART: The center lot is the  
10 existing Dock's facility. It's a 30-foot wide lot,  
11 100 feet deep. The existing building is  
12 approximately 3,000 square feet, just shy of that.  
13 That will be completely renovated on the interior.  
14 The expanded area is approximately another 30-foot  
15 wide area, but as Chris pointed out to you, they are  
16 filling in the back of the existing structure and  
17 then going basically two-and-a-half stories, so the  
18 total expansion of area is approximately 8,400  
19 square feet, so this is a big change for the  
20 Dougherty family with this facility. They've been  
21 operating a 3,000 square foot restaurant and they're  
22 basically tripling the size of it.

23 What they would like to do as part of  
24 this is to redevelop a portion of the existing  
25 facility and then also utilize the parcels to the

1 rear of the site that they've acquired to allow for a  
2 nice flow for customer traffic and parking. The  
3 proposal is a 38-space parking lot, which will  
4 obviously have all the required site plan amenities  
5 including handicapped parking, landscaping, lighting  
6 throughout and then obviously properly draining, so  
7 that we don't affect any of our neighbors.

8           The project meets nearly every bulk and  
9 area requirement in the land use ordinance, but there  
10 are two deviations this morning. One is with regard  
11 to this rear portion of the site where we are  
12 proposing parking. As I already mentioned, that area  
13 lies within the R-3 district and the R-3 district  
14 does not permit stand-alone parking facilities.  
15 Interestingly enough, Miss Cofone mentions it in her  
16 report, in her portion of the report, and I'm just  
17 going to read it quickly into the record. When a lot  
18 held in one ownership on the effective date of this  
19 chapter is decided by a district boundary line, the  
20 entire lot shall be construed to be within the less  
21 restrictive district. The subject property is  
22 controlled by the less restrictive standards of the  
23 NC-2 district.

24           So if Joe's grandparents had bought this  
25 lot a great number of years ago, we actually wouldn't

1 need a use variance, because we would be permitted to  
2 utilize the less restrictive of the zoning here which  
3 would be the NC-2 district, so we would really just  
4 be here for site plan. That's not the case. I just  
5 wanted to point out the idea that land use ordinance  
6 does recognize the fact that in split lot type of  
7 cases, albeit, this one's after the fact, there is  
8 some latitude given to the uses that go on those  
9 properties when you are bound by or when you are  
10 adjacent to two different zoning districts.

11 So we'll talk first about the use  
12 variance portion of the site. We have to prove  
13 special reasons exist and we have to talk about the  
14 Medici criteria, positive and negative aspects of a  
15 variance for use. I think this is -- in the world of  
16 use variances, I think this is probably one of the  
17 easier ones I'll say, because we think there are a  
18 number of special reasons that exist that allow this  
19 variance to be granted. The three I'm going to  
20 identify this morning is first we believe that the  
21 application promotes the general welfare. Well, it  
22 does that in a couple ways. We are enhancing,  
23 expanding and making an iconic use of the city of  
24 Atlantic City better for the public, better for the  
25 community. We have actually already done this, but

1 buildings that were there, this application has  
2 removed blight from this neighborhood and, finally,  
3 we are continuing to provide top quality dining and  
4 entertainment in the city of Atlantic City by  
5 expanding upon what has been a use that has been very  
6 successful for over 100 years in the city and we're  
7 very happy, as is the Dougherty family, that they're  
8 able to expand it, continue to maintain it and do it  
9 in a successful manner. So for all these reasons we  
10 believe the general welfare is advanced with this  
11 application.

12           Specific to this piece of property and  
13 parking, well, what this site does, allowing us to  
14 use that area for parking is it helps to promote the  
15 free flow of traffic. We currently have a lot  
16 adjacent to our site which is double stacked and it  
17 does not have an out. It's in and out on Atlantic  
18 Avenue. This configuration allows complete free flow  
19 for customers. There is no double stacking proposed  
20 and we have two-way access on both Atlantic and  
21 Georgia Avenue. One thing I do want to put on the  
22 record with regard to that is that there is potential  
23 for times where the Doughertys will take over the lot  
24 for valet use only, and which will allow them to put  
25 additional cars into the drive aisles because they

1 will be completely controlled by valet operators.

2 MS. COFONE: They do that now, don't  
3 they?

4 MR. BARNHART: Because they have to  
5 because of the double stacking. That's correct.  
6 This allows either/or. This allows them to not have  
7 to worry about the lot, just make sure it's clean  
8 and safe and let the customers use it, but on the  
9 very busy periods on the weekends, they can then  
10 take the lot back over and park additional cars as  
11 needed, so it's nice that they have that opportunity  
12 and I think all of that goes to the promotion of  
13 free flow of traffic.

14 Finally, the third special reason I  
15 wanted to mention is the creation of a desirable  
16 visual environment through creative design  
17 techniques. Joe and Frank through Chris's office are  
18 attempting to basically recreate history here. They  
19 are expanding the building, but they're doing it in a  
20 tasteful manner to make it work with the existing  
21 architecture and to enhance the existing  
22 architecture, and you'll see also through the use of  
23 signage which we already showed once, but is the real  
24 key to my justification for that sign variance we're  
25 going to be asking for in a moment. The idea here is



1 to keep that look, keep that appearance and continue  
2 it hopefully for another hundred years into the  
3 future in the city. The way that they've developed  
4 this building, we believe that a more desirable  
5 environment has been created through the creative  
6 design techniques that they've utilized.

7 As part of a use variance we have to  
8 deal with the Medici criteria. We have to discuss  
9 why the site is particularly well suited first and  
10 foremost.

11 Well, what I would say to you here is  
12 what we propose here is we are -- right in this area  
13 is already parking. We are proposing to utilize this  
14 area as parking. So we're adjacent to an existing  
15 parking facility. We're just expanding upon it.  
16 We're essentially across the street from another  
17 parking facility, so the use of parking in the  
18 residential zone is not a new use that's being  
19 instituted into this neighborhood. And I think also  
20 very importantly, while this site's particularly well  
21 suited, in my opinion, it actually creates a nice  
22 transition or buffer from the operation of the rear  
23 of the commercial uses along Atlantic Avenue. The  
24 zoning boundary goes right up to the back of those  
25 buildings right now from the NC-2 to the R-3, which

1 you've got trash, deliveries, all kinds of things  
2 going on. We now are going to have a parking area,  
3 and a fence along that side property line which we  
4 think creates a quieter and better buffer and  
5 distance from the busy restaurant use of the Dock's  
6 Oyster House. So I think that the site is very  
7 particularly well suited for the use that's intended.

8           The other two, we have to talk about the  
9 negative criteria. Do we impair the intent or  
10 purpose of the zone plan or zoning ordinance. The  
11 excerpt that I read from Miss Cofone's report I think  
12 proves the fact that we don't, because had the  
13 Dougherty family owned this property prior it  
14 wouldn't even be a use variance. I think this is a  
15 situation where the proposed use on this site clearly  
16 is in keeping with the intent of the master plan by  
17 allowing this commercial use to expand in an  
18 appropriate fashion.

19           Finally we have to discuss whether  
20 there's any substantial detriment to public good. I  
21 have laid out the surrounding land uses. I think  
22 without question this is a case that this is a  
23 benefit to the public. We have, as I mentioned  
24 already, removed some derelict properties. We are  
25 taking our property to the next level. We're

1 developing a parking lot that meets current site plan  
2 standards. So for all those reasons, we believe that  
3 there is no detriment to the public good.

4 So based on the positive and negative  
5 criteria and the special reasons that I put on the  
6 record and our justification with regard to  
7 particularly well suitedness of Medici, we believe  
8 that the D variance for this application can be  
9 granted.

10 The second variance that we are  
11 requesting this morning deals with the sign and  
12 you'll see at the bottom of this is a little small --  
13 we're proposing a sign which will hang over the  
14 existing Dock's canopy on the front of the building.  
15 That sign -- I'm going to switch for a second back to  
16 the other exhibit I was showing, because what we're  
17 really trying to do here is put back what was there  
18 essentially. The design of the new sign is that  
19 sign. They're trying to create that look. It's a  
20 sign. It needs a variance, because to its peak it's  
21 at 25.75 feet above the sidewalk and the ordinance  
22 permits a maximum of 20 feet or I think it's the sill  
23 height. We are at 25.75 feet. Obviously, we want  
24 the sign to be seen for motorists and for  
25 pedestrians, but we're essentially reattaching it to

1 the same position that it was once on on the face of  
2 this building, and it's, in our opinion, more of  
3 architecture than it is a sign. It's an integral  
4 part of the design of this building to create that  
5 1950s appeal of the front of this site. So I think  
6 that the variance for the sign clearly can be granted  
7 under the C-2 criteria where the benefits of the  
8 deviation outweigh any potential detriments. This  
9 will allow motorists to identify the site better.  
10 The current signs, the canopy sign and other sign are  
11 smaller. And this will also create, we think, an  
12 interesting appeal along this portion of Atlantic  
13 Avenue, so we think the benefits of this deviation  
14 outweigh any potential detriments. We don't see any  
15 negative impact associated with installation of that  
16 sign.

17 They were the two variances that we are  
18 requesting this morning. We believe that the  
19 application meets all the site plan standards for  
20 major site plan approval, preliminary and final.  
21 Although I enjoy arguing with Mr. England, we do  
22 agree with all of his comments and we will address  
23 those appropriately. I have gone through all the  
24 testimony, I believe, that Miss Cofone's portion of  
25 the report required. I did want to mention that as

1 part of the parking analysis that we did, we took  
2 advantage of the up to 85 percent reduction because  
3 this property is on public transportation route.  
4 Based on the calculations, I think utilizing 85  
5 percent reduction. We're only required to have 19  
6 spaces and, as I mentioned, we have 38 spaces, so we  
7 believe that we have adequate parking for the site  
8 and this truly is, as everybody I'm sure is familiar.  
9 This truly is a location that people walk to,  
10 employees walk to. People do use transportation to  
11 get to. It's part of the synergy of Atlantic Avenue  
12 and we think this is a wonderful project. We're  
13 extremely happy to be working on it with the  
14 Dougherty family and this is one of those projects  
15 that with a straight face you can say is a real  
16 benefit to the community.

17 That's really all I have unless anybody  
18 has any questions.

19 MR. LANDGRAF: We've all bumped elbows  
20 with adjoining tables.

21 MR. BARNHART: We're trying to spread  
22 those out a little bit.

23 MR. DOUGHERTY: Just one more thing,  
24 Mr. Barnhart. Since the projecting sign technically  
25 is over city right of way where it has been for a

1 while and we'd be asking the board for a conditional  
2 use permit.

3 MR. BARNHART: Yeah. Glad you  
4 mentioned that. The land use ordinance for signage  
5 requires a sign that is over the public right of way  
6 is required to obtain a conditional use permit.  
7 It's not a variance. It's a conditional use permit  
8 as part of any board application, so that is  
9 something that we would be requesting this morning.

10 MR. DOUGHERTY: And there is an  
11 existing license agreement with the city. We're  
12 just not sure based on the legal description for it  
13 that it covers this area, but if it does not, of  
14 course, we'll get the approval. If it's granted,  
15 will be subject to the appropriate license from the  
16 city.

17 MR. LANDGRAF: That's fine. That would  
18 be part of this application. All we would need to  
19 do is either you provide us documentation that the  
20 city's current license covers it or it's updated,  
21 show that they still allow it.

22 MR. DOUGHERTY: Okay. We'll do that.

23 MR. LANDGRAF: Anything else?

24 MR. DOUGHERTY: Not from us.

25 MR. LANDGRAF: Bill, you want to go

1 first?

2 MR. ENGLAND: My report's dated July  
3 10th and I do enjoy arguing with Mr. Barnhart.

4 MR. COLLINS: B-1 for the record.

5 MR. ENGLAND: Other than that, the  
6 comments made in the report are relatively  
7 straightforward and minor in nature. They're items  
8 that we can work through and have worked through in  
9 the past on other applications, so I really have no  
10 additional comments at this point.

11 MR. LANDGRAF: Okay. Christine,  
12 anything from your side?

13 MS. COFONE: I have never argued with  
14 Mr. Barnhart, but I generally like to argue, so I'd  
15 probably enjoy that as well. I'll say that for the  
16 record.

17 I would agree with your characterization  
18 that this is a fairly benign use variance. It's an  
19 outlying parcel on the R-3 in addition to the NC-2.  
20 I would agree with your characterization. In  
21 addition to criteria A, H and I of the land use law,  
22 would you agree that the CRDA could also consider a  
23 criteria G which talks about sufficient space in  
24 appropriate locations, given that proximity to the NC  
25 zone as well as an efficient use of the land, given

1 the fact that it is also next to your parking lot and  
2 opens that up?

3 MR. BARNHART: Yes, absolutely.

4 MS. COFONE: Thanks. That's all I  
5 have.

6 MR. LANDGRAF: Christine, correct me if  
7 I'm wrong, the land use element that we just  
8 completed going before our board very soon will  
9 correct a lot of these types of zoning issues that  
10 were in this area?

11 MS. COFONE: Yes.

12 MR. LANDGRAF: I think this is the  
13 Ducktown Arts District that will incorporate all of  
14 these parcels. So that will change this. If we'd  
15 have had it done, you wouldn't have needed a use  
16 variance, but we're working towards that end and  
17 this will create a consistent district between kind  
18 of the boardwalk zone or the resort commercial zone  
19 and the zones back on the bay. So this will be  
20 consistent. Right now it's a checkerboard. I think  
21 there's three or four different zones within a block  
22 of each other. So we're working to that end. So  
23 this will be certainly in meeting the master plan  
24 goals and hopefully that --

25 MS. COFONE: Yes, I would agree with



1 that.

2 MR. LANDGRAF: Okay. Anything from the  
3 public? We'll open it up to the public at this  
4 point. Seeing none, we'll close the public portion.

5 Anything else, Mr. Dougherty?

6 MR. DOUGHERTY: That's it. Thank you.

7 MR. LANDGRAF: Rob, you're good?

8 MR. REID: I'm good.

9 MR. LANDGRAF: We'll prepare two  
10 hearing officer reports and provide you a copy of  
11 that before it goes before our board for its  
12 approvals.

13 (The hearing was concluded at 11:26  
14 a.m.)

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