



1 January 17, 2008

Santa Cruz, California

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

3 THE COURT: All right. On the matter of  
4 Cove Britton versus County of Santa Cruz, appearances,  
5 please.

6 MR. BENJAMIN: Good morning, Your Honor.  
7 Nathan Benjamin on behalf of petitioner Britton.

8 MR. CHELEDEN: Good morning, Your Honor.  
9 Chris Cheleden on behalf of the County.

10 THE COURT: All right. In this matter the  
11 petitioners are seeking by way of writ of mandate to  
12 set aside the guidelines that apparently have been  
13 approved. Petitioners challenged the Board of  
14 Supervisors March 27th, 2007 decision to accept and  
15 file the Planning Department's neighborhood  
16 compatibility guidelines and the Planning Department's  
17 use of those guidelines in evaluating new  
18 developments. The position the petitioners take is  
19 that these actions are in violation of due process and  
20 the provisions found in the County Code under Section  
21 13.11 and specifically .076 which outline that the  
22 Board of Supervisors, upon consideration of the  
23 Planning Commission's recommendations, may adopt.

24 In this particular case in March of 2003  
25 the Planning Commission, at the Planning Commission  
26 meeting at that date, the planning staff opposed a

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00:01:54 1 guideline brochure which the Planning Commission  
00:01:58 2 refused to approve and directed the planning staff to  
00:02:03 3 revise the guidelines and return to the commission  
00:02:06 4 with a staff report as to how the guideline lineup  
00:02:15 5 would compare with the provisions of Section 13.11.  
00:02:19 6 Instead, the Planning Department went directly to the  
00:02:21 7 Board of Supervisors and in March of -- or not March  
00:02:28 8 but sometime -- I guess it was March 27th of 2007  
00:02:36 9 approved these guidelines, or they were accepted at  
00:02:45 10 any rate and filed by the board.

00:02:47 11           Petitioners argue that the process by  
00:02:51 12 which the board and planning staff implemented these  
00:02:57 13 mandatory design guidelines violated due process, and  
00:03:03 14 on that basis and also that it appears that they are  
00:03:16 15 not consistent in some areas with the provisions found  
00:03:21 16 in Section 13.11 they seek to have them set aside.

00:03:34 17           The Court's tentative ruling is to grant  
00:03:41 18 the petition and set aside these guidelines based on  
00:03:53 19 the failure to follow the provisions as set forth in  
00:03:58 20 Section 13.11.076. So that's the tentative ruling.

00:04:07 21           Further arguments by the County?

00:04:08 22           MR. CHELEDEN: Yes, Your Honor. First of  
00:04:10 23 all, the guidelines that were at issue in 2003 are  
00:04:15 24 different substantively than the current guidelines,  
00:04:18 25 and the big difference is that the manual -- the  
00:04:20 26 guidelines manual contemplated in the code includes

