

Circuit Court for Baltimore City  
Case No. C-24-CV-24-000402

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 2070

September Term, 2024

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IN THE MATTER OF SAN SAN YU

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Arthur,  
Friedman,  
Getty, Joseph M.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Getty, J.

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Filed: April 30, 2026

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Appellant San San Yu (“Ms. Yu”) challenges an amendment to a Planned Unit Development (“PUD”) to permit the construction of a nonconforming multipurpose building across a narrow alleyway from Ms. Yu’s modest row home. Ms. Yu challenges the validity of the amendment chiefly because the proposed building will reach seventy-eight feet, ten feet higher than the sixty-eight feet allowable by the underlying zoning, and encroach upon its current twenty-foot setback from the street, thereby depriving Ms. Yu’s property of the air and sunlight she currently enjoys. The Appellees comprise the Mayor and City Council of Baltimore (“the City”) and MCB Charles Village, LLC (“MCB”), the developer that proposed the project Ms. Yu opposes (collectively, “Appellees”).

Ms. Yu presents four questions for our review, which we have rephrased and reordered as follows:

1. Did the City err when it considered the PUD amendment relative to C-1 zoning constraints instead of the prior B-1-3 zoning constraints?
2. Did the City err by failing to make particularized findings of fact on the underlying zoning issue?
3. Did the City err when it found the PUD does not adversely affect Ms. Yu’s property?
4. Did the circuit court err when it sustained the validity of the ordinance at issue?<sup>1</sup>

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<sup>1</sup> Ms. Yu phrased her questions as follows:

1. Did the Circuit Court correctly sustain the validity of Ordinance No. 24-328 (Council Bill 23-0433)?

We shall answer in the negative, and therefore affirm.

## BACKGROUND

### A. Transform Baltimore

Baltimore City enacted Bill 12-0152, legislation known as “Transform Baltimore,” in December 2016, its first comprehensive rezoning plan since 1971. *See Floyd v. Balt. City Council*, 241 Md. App. 199, 203 (2019). Transform Baltimore went into effect as Baltimore City Code, Article 32 on June 5, 2017. The code was “intended to simplify and streamline development review; provide an easy to understand set of rules; and create a more modern code that fosters growth and development, while maintaining the character of Baltimore’s neighborhoods.”<sup>2</sup>

Sections 2-201 through 2-203 of the Zoning Code outline its applicability, exemptions, and, relevant to this appeal, a set of “transition rules” that resolve when and to what extent its new provisions apply to “structures or uses previously governed under other zoning regulations.” Transition rule § 2-203(h) provides that, for Planned Unit Developments (“PUDs”) established before Transform Baltimore went into effect on June 5, 2017, like the one in the case before us, we look to § 13-102, which governs the transition rules for PUDs.

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2. Does the PUD adversely affect Appellant’s property and did the Committee err in failing to so find?
  3. Does the PUD conform to the B-1-3 zoning?
  4. Did the Committee err when it did not make particularized findings of fact?

<sup>2</sup> Balt. Dep’t of Hous. & Cmty. Dev., *Transform Baltimore – New Zoning Code*, available at <https://www.baltimorecity.gov/dhcd/our-work/code-enforcement/transform-baltimore-zoning>.

Section 13, entitled “Planned Unit Developments,” expounds upon the purpose of PUDs: namely, to “encourage flexibility in the development of land and in the design of structures;” to “encourage a creative approach to the use of land that results in better development and design than might otherwise be accomplished under the strict application of this Code[;]” and to support uses of the land that are both efficient and “appropriate[ly] aesthetic” so as to “enhance the character of the site[.]” Baltimore City Code, Article 32, § 13-101. Section 13 also lays out a number of “grandfathering” provisions, which in general permit PUDs and their prior approved uses to remain valid—i.e., to be “grandfathered in”—with exceptions to these rules expressly noted. Section 13-102 provides the following:

**(a) In general**

Residential, office-residential, business, and industrial planned unit developments approved before the effective date of this Code (June 5, 2017) remain valid as long as they continue to comply with all requirements and conditions of their approvals and with the Zoning Code regulations in effect immediately preceding the date of those approvals.

**(b) Amendments**

Any amendments to these previously approved planned unit developments will be categorized as either engineering corrections, minor changes, or major changes in accordance with Subtitle 4 {“Modifications to approved final development plans”} of this title and must follow the corresponding approval procedure.

**(c) Allowed uses**

All permitted and conditional uses of the underlying zoning district of a previously approved planned unit development are allowed unless specifically prohibited by the planned unit development.

Baltimore City Code, Article 32, § 13-102.

Subtitle 4, titled “Modifications to Approved Final Development Plans,” referenced above under “(b) Amendments,” outlines approval procedures for different categories of proposed changes, including engineering corrections, minor changes, and major changes.

Section 13-403 defines a major change as:

- (1) a 10% increase or 25% decrease in the approved number of dwelling units;
- (2) a 10% increase or a 25% decrease in the maximum building heights in the approved planned unit development;
- (3) a change in the type, location, or arrangement of land use within the development, as shown on the previously approved final development plan;
- (4) a change in the boundaries of the planned unit development;
- (5) a decrease in open space that had been included as a public benefit or amenity under § 13-204 {“Exceptions from district regulations”} of this title; and
- (6) any change:
  - (i) that fails to substantially comply with the PUD master plan or City regulations; or
  - (ii) that violates:
    - (A) the underlying zoning;
    - (B) an approved exception;
    - (C) a condition of approval attached to the planned unit development, with the exception of modifications to the planned unit development’s phasing schedule; or
    - (D) a provision of the ordinance that approved or amended the planned unit development.

Baltimore City Code, Article 32, § 13-403(a).

Section 13-403(b) provides that “[a] major change requires introduction and enactment of an ordinance to approve an amendment to the planned unit development and PUD master plan.” Section 5-201(a) authorizes the City Council to propose an ordinance “to expressly approve, authorize, or amend[,]” among other things, “a planned unit development.”

### **B. Factual Background**

North Charles Village Planned Unit Development, the PUD at issue in this appeal, came into existence in 1996, and has seen a small handful of changes since its inception. The PUD has seen two amendments that constituted major changes: the Baltimore City Council amended the PUD in 2003 to expand its boundaries to include several other properties owned by Johns Hopkins University, and again in 2007 to modify the allowable height of structures built within the bounds of the PUD. The PUD has also implemented a smattering of minor amendments over the years, including allowing a temporary parking lot and approving design changes to buildings within the PUD.

Prior to the implementation of Transform Baltimore, the area’s underlying zoning classification was B-1, titled “Neighborhood Business District,” with a subclassification as B-1-3 “for purposes of bulk regulations.” Baltimore City Zoning Code §§ 6-201–02, 6-211(d) (2015). Under the prior zoning code, a B-1-3 district did not have an explicit maximum building height; its density was regulated primarily via Floor Area Ratio.<sup>3</sup>

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<sup>3</sup> Floor Area Ratio compares the total combined square footage of all of the building’s floors to the size of the parcel of land upon which the building rests. *See* Land Use Planning and Development Regulation Law § 4:14 (3d ed.).

Under Transform Baltimore, the underlying zoning in the neighborhood changed to C-1, titled “Neighborhood Business Zoning District.”<sup>4</sup> C-1 zoning explicitly allows for a maximum building height of sixty-eight feet by right.

Appellee MCB proposed an amendment to the PUD to modify the allowable height of a proposed building project within the PUD—namely, a mixed-use building that would feature a grocery store on the ground floor and student housing for Johns Hopkins University on the upper floors.

The proposed amendment was introduced to the City Council as Bill 23-0433 and assigned to the City Council’s Economic and Community Development Committee (“the Committee”) for consideration. The Baltimore City Planning Commission issued a memo in December 2023 incorporating its staff report on the bill and recommending the bill’s approval. The Committee also received reports and heard testimony from a number of other City agencies, including the Department of Law, the Department of Housing and Community Development, the Department of Public Works, the Office of Equity and Civil Rights, and the Baltimore Development Corporation. Each agency recommended approval of the amendment.

The Committee received letters of support for the bill from the Charles Village Civic Association; Streets Market, the local grocer that will occupy the ground floor of the proposed building; and a number of neighborhood residents. The Committee also received

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<sup>4</sup> The record periodically references C-2 zoning erroneously, but the relevant parcels are properly zoned C-1.

numerous letters from residents who opposed the construction of the new building, and by extension, the PUD amendment.

The Committee held a public hearing to receive evidence and testimony regarding the proposed amendment on April 2, 2024. Among the bill's opponents was the Appellant, Ms. Yu, a longtime resident of the North Charles Village neighborhood of Baltimore. Ms. Yu has worked as a researcher at Johns Hopkins University for over twenty years, and owns her home at 101 East 32nd Street, where she has resided for over sixteen years. Ms. Yu opposed the amendment at issue because the proposed building will affect the sunlight and flow of traffic near her home. The current building across Hargrove Street is two stories high and sits twenty feet back from the street, while the proposed building will reach seventy-eight feet and sit closer to the small side street, which will cast a shadow over Ms. Yu's property where she has heretofore enjoyed unobstructed sunlight. Ms. Yu herself primarily testified to her concerns regarding increased traffic on Hargrove Street and proximity of cars to her home. Three other residents of the area testified in opposition to the bill, where two indicated that they also spoke on behalf of several of their neighbors.

Following the public hearing, the Committee issued findings of fact and unanimously recommended that the City pass the ordinance. The proposed ordinance was then advanced for Third Reading and Final Passage on April 8, 2024. The City Council expressly adopted the Committee's findings of fact and passed the ordinance. The Mayor of Baltimore City signed the ordinance into law on April 24, 2024.

### C. The Committee's Findings of Fact

Following the public hearing, the Committee issued findings of fact based on its review of the Planning Commission's memo and staff report, reports from the other City agencies listed above, and evidence and testimony presented at the hearing.

The Committee first addressed the required findings in Section 13-203(b) of the Zoning Code for approval of a Planned Unit Development:

- (1) the use **IS** compatible with the surrounding neighborhood for the following reasons:

The proposed uses within the PUD generally are consistent with the underlying zoning and other existing uses within the PUD and the surrounding neighborhood. Providing additional student housing options in close proximity to Johns Hopkins University will help reduce the impact of students on the surrounding community, and the retention of the grocery store is an amenity to all neighborhood residents

- (2) the use **FURTHERS** the proposed classification for the following reasons:

The proposed uses are consistent with the underlying C-2 zoning, which permits student housing and retail goods establishments by right

- (3) the PUD master plan developed under Section 13-304 of the Zoning Code **ENSURES** there will be no discordance with existing uses by:

Existing uses within the PUD were established pursuant to the former zoning code, but the proposed use is consistent both with the uses permitted under the PUD and the uses permitted by the underlying zoning[.]

The Committee then addressed the approval standards for a conditional use as set forth in Section 5-406(b) of the Zoning Code:

- (4) the establishment, location, construction, maintenance, or operation of the PUD **WOULD NOT** be detrimental to or endanger the public health, safety, or welfare because:

The proposed PUD amendment authorizes an increase in building height in one block of the PUD, which will permit the construction of 7-story mixed-use building that will include grocery store on the first floor and student housing above. This amendment will be beneficial to public health, safety, and welfare because it will allow the neighborhood to retain grocery store, facilitate the construction of modern building with sustainable design features, and improve the public spaces surrounding the property with enhanced landscaping and pedestrian-scale amenities.

- (5) the use **WOULD NOT** be precluded by any other law, including an Urban Renewal Plan

The proposed PUD amendment is not precluded by any other law, and the project is not located within an Urban Renewal Area.

- (6) the authorization **WOULD NOT** be contrary to the public interest because:

The project enjoys support from local residents and community organizations including the Charles Village Civic Association.

- (7) the authorization **WOULD** be in harmony with the purpose and intent of the Zoning Code because:

The proposed PUD amendment supports the stated purposes of the Code to “preserve and enhance the value of structures, communities, and neighborhoods,” and “to preserve, protect, and promote the City’s employment base.” Art. 32, 2-101. The construction of student housing building will create an opportunity for local university students to enjoy off-campus living without intruding into the local residential community, which will be beneficial both to the students and to residents of those communities. In addition, the retention of grocery store in Charles Village will retain jobs and preserve neighborhood amenity.

Additionally, the Committee considered:

- 1. The nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;**

The proposed PUD amendment will increase the permitted height in one block of the PUD as shown on the revised Illustrative Preliminary Build-Out Plan in manner that is consistent with existing development in the vicinity.

Other buildings in the immediately surrounding blocks range from 5 to 12 stories.

**2. The resulting traffic patterns and adequacy of proposed off-street parking and loading;**

The proposed PUD amendment will allow the redevelopment of the subject property in a manner that improves traffic circulation around the building and loading for the grocery store by widening the alley in the rear (Hargrove Street).

**3. The nature of the surrounding area and the extent to which the proposed use might impair its present or future development;**

The proposed redevelopment is consistent with existing uses in the area and will not impair present or future development. Additional student housing options and a grocery store are assets to the community, and the redevelopment of the subject parcel will not impede the development of any other property

**4. The proximity of dwellings, churches, schools, public structures, and other places of public gathering;**

The PUD currently includes hundreds if not thousands of residential dwelling units that will benefit from the retention of the grocery store. In addition, the proposed improvements to the pedestrian experience along St. Paul Street and the new publicly accessible plaza adjacent to the building will be important amenities to increase the number of places for public gathering within the PUD

**5. Accessibility of the premises for emergency vehicles;**

By widening the alley in the rear of the property, the project will allow better access for emergency vehicles from what exists today.

**6. Accessibility of light and air to the premises and to the property in the vicinity;**

The proposed structure has been modified significantly to reduce its height and pull back from the edge of the property at the corners in order to minimize its impact on light and air to surrounding properties. Importantly, the Applicant is only seeing an increase of 10 [feet] above the permitted height in the C-1 Zoning District. The proposed 10 [foot] increase in height

will not have a material impact on surrounding property owners beyond what would be created by a project without the proposed height increase.

These findings of fact addressed the limited criteria for denial of a conditional use outlined in Section 5-406(b) of the Zoning Code, as well as concerns raised by the amendment's opponents.

#### **D. Procedural Posture**

Ms. Yu filed a petition for judicial review of the City's decision in the Circuit Court for Baltimore City on May 20, 2024. Ms. Yu's supporting memorandum asserted that approximately one hundred and twenty-five residents submitted letters in opposition to the proposed building. The court heard argument from counsel for Ms. Yu, the City, and MCB, and issued an oral ruling on November 25, 2024.

The court found that the City made sufficient findings on the record, and that those findings supported the City's decision. The court noted that although it would have been preferable for purposes of judicial review if the City had elaborated upon how both the current and prior zoning might have affected the proposed amendment, it was nonetheless clear from the record that the City properly weighed the potential benefit against the potential adverse effect of allowing for the proposed building's additional height in its analysis, and adopted the amendment with that cost-benefit analysis in mind. The court therefore found that the ordinance was valid because its passage was supported by substantial evidence in the record and was not based on an error of law.

Ms. Yu now appeals.

## DISCUSSION

### Standard of Review

“Judicial review of administrative agency action is narrow.” *People’s Couns. for Balt. Cnty. v. Loyola Coll.*, 406 Md. 54, 66 (2008) (internal citations omitted). “[A]lthough this is an appeal from the judgment of the circuit court, affirming the [administrative agency’s] decision, it is the [agency’s] decision we review.” *Mombee TLC, Inc. v. Mayor & City Council of Balt.*, 165 Md. App. 42, 54 (2005).

In reviewing a circuit court judgment centered on the validity of an administrative decision, “our role is precisely the same as that of the circuit court.” *Id.* (internal quotations omitted). We limit our review to determining whether there was “substantial evidence in the record as a whole to support the agency’s findings and conclusions,” and whether the agency’s decision “is premised upon an erroneous conclusion of law.” *Id.* (internal quotations omitted).

Although we review the agency’s conclusions of law *de novo*, we afford deference to “the agency’s interpretation of a law or regulation with respect to which the agency has a special expertise.” *See Angelini v. Harford Cnty.*, 144 Md. App. 369, 373 (2002). “[A] court’s task on review is not to substitute its judgment for the expertise of those persons who constitute the administrative agency.” *Id.* (quoting *Bd. of Physician Quality Assur. v. Banks*, 354 Md. 59, 68 (1999)) (internal quotation marks omitted).

### The City Council’s Decision

“In an appeal from a circuit court’s judicial review of an administrative agency proceeding, we review the final decision of the agency, not the circuit court.” *Md. Dep’t of*

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*Transp. v. Maddalone*, 187 Md. App. 549, 571 (2009). We will uphold the City’s decision if there is “substantial evidence in the record as a whole” to support its findings and conclusions, and if its decision is not based upon a legal error. *Mombee TLC*, 165 Md. App. at 54. The City’s conclusions were supported by substantial evidence if “a reasoning mind reasonably could have reached the factual conclusion the agency reached.” *Brandywine Senior Living at Potomac LLC v. Paul*, 237 Md. App. 195, 210 (2018) (quoting *Layton v. Howard Cnty. Bd. of Appeals*, 399 Md. 36, 48–49 (2007)) (internal quotation marks omitted).

To determine whether there was substantial evidence in the record to support the City’s decision, we look to the City’s findings of fact. *See Md. State Bd. of Dental Examiners v. Tabb*, 199 Md. App. 352, 383 (2011). An administrative agency is “required to issue findings of fact and conclusions of law in support of its opinion.” *Id.* (internal quotations omitted). “[F]indings of fact must be meaningful and cannot simply repeat statutory criteria, broad conclusory statements, or boilerplate resolutions.” *Mehrling v. Nationwide Ins. Co.*, 371 Md. 40, 64 (2002) (internal quotations omitted). “The purpose of the findings requirement is threefold: (1) requiring an articulation of the reasoning process makes the decision-maker accountable to the public; (2) it allows the injured party to understand the reasons behind the agency’s decision; and (3) most important, the findings requirement assists in facilitating judicial review of the agency’s decision.” *Md. State Bd. of Dental Examiners*, 199 Md. App. at 383 (quoting *Bd. of Cnty. Comm’rs for St. Mary’s Cnty. v. S. Res. Mgmt., Inc.*, 154 Md. App. 10, 34–35 (2003)).

Although an appellate court owes an agency no deference on pure issues of law,

“[e]ven with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. We, therefore, ordinarily give considerable weight to the administrative agency’s interpretation and application of the statute that the agency administers. Furthermore, the expertise of the agency in its own field of endeavor is entitled to judicial respect.” *Finucan v. Md. Bd. of Physician Quality Assurance*, 380 Md. 577, 590 (2004) (internal quotations omitted).

**I. The City did not err when it based the PUD Amendment on underlying C-1 zoning restrictions.**

**A. The Parties’ Contentions**

Ms. Yu submits that the ordinance was invalid because the City assessed and approved the amendment based on the wrong underlying zoning classification. In Ms. Yu’s view, given that the PUD was subject to B-1-3 zoning prior to the implementation of Transform Baltimore and has apparently remained compliant with those zoning limitations since that time, the amendment should have been proposed and weighed relative to B-1-3 zoning limitations rather than C-1 limitations. Ms. Yu asserts that under Transform Baltimore’s transition rules, “the zoning in effect before the enactment of Transform Baltimore continues to control the parcels located within the PUD notwithstanding Transform Baltimore.”

The Appellees respond that the City Council correctly interpreted the operative provisions of the zoning code, and that its approval of the amendment was proper because it was supported by substantial evidence on the record. The Appellees note that Ms. Yu

appears to interpret Transform Baltimore’s transition rule § 13-201(a) and § 13-102(a) in a vacuum while ignoring completely the applicability of § 13-102(b).

Appellees also assert that Ms. Yu’s arguments are not preserved for appeal because Ms. Yu did not give the City a meaningful opportunity to address the underlying zoning issue, and likewise to make findings of fact on the record on that issue.

### **B. Analysis**

As a threshold matter, the Appellees submit that Ms. Yu’s argument is not preserved because Ms. Yu’s counsel denied the City a meaningful opportunity to address the issue of the disparate zoning.

When reviewing an administrative agency’s decision, a court “may not pass upon issues presented to it for the first time on judicial review and that are not encompassed in the final decision of the administrative agency.” *Mesbahi v. Md. State Bd. of Physicians*, 201 Md. App. 315, 333 (2011) (quoting *Dept. of Health & Mental Hygiene v. Campbell*, 364 Md. 108, 123 (2001)). “[A] passing reference to an issue, without making clear the substance of the claim, is insufficient to preserve an issue for appeal[.]” *Concerned Citizens of Cloverly v. Montgomery Cnty. Plan. Bd.*, 254 Md. App. 575, 603 (2022).

Here, Ms. Yu’s counsel raised the zoning issue both at the public hearing and in a letter submitted to the Committee on April 2, 2024. Although the City did not expound upon this claim in its findings of fact, the City explicitly considered the amendment relative to C-1 zoning. Counsel’s mere assertion that “[t]he court will have to determine” whether the ordinance was based on the appropriate underlying zoning does not deprive the City of

an opportunity to address the issue. The alleged zoning conflict was raised and resolved on the record sufficiently to support judicial review.

We turn therefore to the substance of Ms. Yu’s claim. Ms. Yu advances the labored argument that because the PUD at issue has heretofore apparently remained compliant with the constraints of its B-1-3 zoning, the City should have analyzed the effect of the proposed PUD amendment relative to B-1-3 zoning constraints rather than C-1 zoning constraints. In practice, this would have required the City to analyze the proposed building’s measurements based on the previous zoning code’s Floor Area Ratio restrictions rather than the explicit height limit imposed by C-1 zoning. Ms. Yu believes that this metric would have placed additional constraints on the proposed building.

However, as Appellees point out, any change to the PUD that violates its grandfathering provision necessarily heralds the PUD’s entry into the Transform Baltimore scheme. Assuming the PUD was compliant with B-1-3 zoning prior to this amendment, any such amendment seeking a nonconforming use would by its nature supersede a grandfathering provision. The relevant provision states that “planned unit developments approved before the effective date of this Code (June 5, 2017) remain valid **as long as** they continue to comply with all requirements and conditions of their approvals and with the Zoning Code regulations in effect immediately preceding the date of those approvals.” Baltimore City Code, Article 32, § 13-102 (emphasis added). Assuming the PUD remained subject to the prior zoning structure before, that is decidedly no longer the case.

Moreover, we presume that the City Council, the entity responsible for the formation and implementation of Transform Baltimore, interprets its own rules properly.

As our Supreme Court noted in *Finucan v. Maryland Board of Physician Quality Assurance*, “the expertise of the agency in its own field of endeavor is entitled to judicial respect.” 380 Md. at 590. Counsel’s suggestion to the Committee that “the court will have to determine” whether the amendment was based on an incorrect understanding of the underlying zoning represents an incorrect interpretation of the court’s role in review of administrative agency decisions.

Finally, we note that Ms. Yu’s argument suggests that if the amendment had been considered against the previous B-1-3 zoning, this would have provided her home more protection because of the different density measurement requirements. However, the practical difference between the two analyses would have been negligible. Nonconforming height relative to the maximum allowable height was a factor the City took into consideration in its analysis—indeed, the developers agreed to reduce the original plan by one floor as a compromise. Moreover, the building is congruous in design with other buildings on the adjacent street. This is not a wild outlier, but consistent with the spirit of the PUD and underlying zoning. It is unlikely that considering the amendment against the previous B-1-3 zoning would have produced a different result.

In sum, there was sufficient evidence on the record to support the City’s decision. Even if the City had based its decision on an incorrect interpretation of the underlying zoning, this would not constitute an error of law but would instead be a matter of semantics.

**II. The City Council did not err when it balanced the benefit of the PUD amendment to the community against the detriment to individual residents.**

**A. The Parties' Contentions**

Ms. Yu argues that the City erred when it failed to find that the amendment would adversely impact her and her property because the proposed amendment “does not conform to the legal standards for a PUD.” In Ms. Yu’s view, this is the case because “the physical characteristics of the planned unit development will [] adversely affect [. . .] the use, maintenance, or value of neighboring areas already developed” and because the conditional use proposed in the amendment will “cause an adverse impact on neighboring properties so as to outweigh the benefits of the development” and “negatively affect the value and enjoyment of surrounding property, the provision of municipal services, or the flow of traffic.”

Ms. Yu asserts that she will suffer harm from reduced sunlight to her property and from an alteration in the flow of traffic because of the proposed building’s reduced setback from the street. Ms. Yu does not address how this harm outweighs the potential benefit of the proposal.

Appellees respond that the City appropriately weighed Ms. Yu’s concerns against the benefit of the proposed development to the community. Appellees point out that “merely any evidence of adverse impact” is not sufficient to defeat a PUD amendment, and point to the evidence and testimony that supported the benefits of the amendment. Appellees also note that MCB testified that they met with Ms. Yu directly and “made

changes” to the building’s design “based on her feedback” to minimize any potential adverse impact she might experience.

## **B. Analysis**

We first note that a dearth of sunlight is not generally considered a cognizable legal harm under Maryland law. “At English common law a landowner could acquire a right to receive sunlight across adjoining land by both express agreement and under the judge-made doctrine of ‘ancient lights.’ Under the doctrine of ancient lights if the landowner had received sunlight across adjoining property for a specified period of time,[] the landowner was entitled to continue to receive unobstructed access to sunlight across the adjoining property.” *See Prah v. Maretti*, 321 N.W.2d 182, 188 (Wis. 1982). Such a right was secured via a negative prescriptive easement over the offending neighboring land. *Id.*

American courts in general, and Maryland in particular, do not recognize the doctrine of ancient lights, favoring instead the mantle of industrial progress. *See Kulbitsky v. Zimnoch*, 196 Md. 504, 508 (1950). Our Supreme Court long ago remarked that “to adopt [the doctrine of ancient lights] would greatly interfere with and impede the rapid changes and improvements constantly going on in our cities and villages.” *Cherry v. Stein*, 11 Md. 1, 2 (1857).

This is the judicial history that Ms. Yu invokes by arguing that the development will harm her by depriving her of the sunlight she has heretofore enjoyed. Ms. Yu submits that the Committee’s role is to prevent harm to property owners in its decision making, but such a feat is impossible. The Committee’s role is to weigh the benefit of its decisions to the community at large against the potential detriment.

The Committee has done so. In its findings of fact, the Committee expressly examines the benefit to the community. At its hearing, the Committee heard testimony from supporters and dissenters alike. Chief among the benefits to the community is a new grocery store, a landmark that is sorely lacking in the area, which accounts for a portion of the deviation from the required zoning height. Indeed, the developers initially proposed an eight-story building that would have reached a height of ninety feet and completely occupied the space that previously constituted a twenty-foot setback from the alleyway known as Hargrove Street. Based on feedback from the community, and Ms. Yu in particular, the proposed building was reduced to seven stories and a maximum height of seventy-eight feet, a portion of the setback was preserved and plans to widen the alleyway were undertaken, and the building's design was further modified to allow for better preservation of light and airflow to the existing neighboring properties.

The City has fulfilled its obligation to weigh the benefit of the PUD amendment to the community against the potential detriment. The City's decision to approve the amendment was supported by substantial evidence in the record, and therefore the City did not err.

**III. The City Council made appropriate findings of fact on the record regarding the issues Ms. Yu raised.**

**A. The Parties' Contentions**

Ms. Yu asserts that the City erred when it failed to make particularized findings of fact on the issues she has raised—namely, the alleged conflict between B-1 and C-1 zoning, and the adverse impact of the proposed building to Ms. Yu's property because of the

building’s increased height and proximity to the street.

The Appellees respond that the City made proper and sufficient factual findings on the record as required by statute, and to the extent that the City did not directly address the alleged zoning issue, the City was not so required because the issue was not properly raised.

### **B. Analysis**

An administrative agency is “required to issue findings of fact and conclusions of law in support of its opinion.” *Md. State Bd. of Dental Examiners*, 199 Md. App. at 383. “[F]indings of fact must be meaningful and cannot simply repeat statutory criteria, broad conclusory statements, or boilerplate resolutions.” *Mehrling*, 371 Md. at 64 (2002) (internal quotations omitted).

Here, Ms. Yu’s alleged zoning issue is not so much a case of failure to make findings of fact as it is a disagreement on the application of the City’s own regulations. Although the City did not outline its every interpretive step, it is clear that the City implicitly found that the PUD amendment should be based on the new C-1 zoning. The City made its position sufficiently clear to support judicial review.

Clearer still are the City’s factual findings on the potential adverse effect on nearby residents—indeed, the City expressly noted “the City Council has considered . . . [a]ccessibility of light and air to the premises and to the property in the vicinity[,]” noting, apparently in direct reference to MCB’s meetings with Ms. Yu, that “[t]he proposed structure has been modified significantly to reduce its height and pull back from the edge of the property at the corners in order to minimize its impact on light and air to surrounding properties.” The City ultimately found that “[t]he proposed 10 [foot]

increase in height will not have a material impact on surrounding property owners beyond what would be created by project without the proposed height increase.” These findings directly address the contentions Ms. Yu raises. Thus, the City did not err by failing to make such findings.

### **The Circuit Court’s Decision**

Finally, Ms. Yu asks whether the circuit court properly sustained the City Council’s decision. As we review the underlying decision of the agency and not the circuit court’s decision, our holding here is simple: the circuit court properly sustained the City Council’s decision because the City Council’s decision was supported by substantial evidence and was not based upon an erroneous conclusion of law.

Accordingly, we affirm.

### **CONCLUSION**

The City Council’s decision to pass the PUD amendment was supported by sufficient evidence on the record and was not based upon an erroneous conclusion of law. We therefore affirm the decision of the circuit court.

**JUDGMENT OF THE  
CIRCUIT COURT FOR  
BALTIMORE CITY  
AFFIRMED. COSTS TO BE  
PAID BY APPELLANT.**