Circuit Court for Prince George's County
Case No. C-16-CV-22-000629

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1590

September Term, 2024

IN THE MATTER OF JULIE WOLF, ET AL.

Arthur,
Ripken,
Kehoe, Christopher B.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: March 25, 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).

In 2018, a real estate developer requested certain zoning changes to facilitate the construction of townhouses on a property located in the City of Hyattsville. The Prince George's County Council, sitting as the District Council, approved the developer's request to rezone part of the property and to add townhouses to the allowed uses for the property. The decision also established a new maximum density of "9 dwelling units per acre" for townhouses on the property.

A group of Hyattsville residents challenged the decision in the Circuit Court for Prince George's County. Among other things, the residents argued that the approved maximum density of "9 dwelling units per acre" did not comply with the zoning ordinance, which regulates density as a maximum number of dwelling units "per acre of 'Net Lot Area.'" Former Prince George's County Code § 27-107.01(a)(66) (2021); *see id.* § 27-442(h). The term "Net Lot Area" means the total area of a lot, excluding public ways and land lying within the County's 100-year floodplain. *Id.* § 27-107.01(a)(161).

On appeal in the judicial review action, this Court upheld the decision to the extent that it rezoned part of the property and added townhouses as an allowed use. *City of Hyattsville v. Prince George's County Council*, 254 Md. App. 1, 10 (2022). This Court concluded, however, that the District Council erred when it approved maximum densities in terms of dwelling units "per acre," rather than net acre. *Id.* at 65-67. This Court directed the circuit court to reverse the decision to the extent that it modified the density regulations and to remand the matter to the District Council to reconsider the issue of maximum density. *Id.* at 10, 69.

On remand, the District Council revisited the matter at a series of public meetings.

Despite objections from the Hyattsville residents, the District Council declined to take additional evidence or to consider any arguments from the parties. The District Council nevertheless sought comments from representatives of the County Planning Department, who advised the District Council that the previously approved density of 9.0 dwelling units per gross acre was equivalent to 12.3 dwelling units per net acre. The District Council then adopted a new decision establishing a maximum density of 12.3 dwelling units per net acre for townhouses on the property.

The Hyattsville residents brought another judicial review action to challenge the District Council's decision after the remand. The Circuit Court for Prince George's County concluded that the decision to establish a new density of 12.3 dwelling units per net acre was not based on substantial evidence in the record. The circuit court vacated the decision and remanded the matter for the District Council to hold an evidentiary hearing on the issue of maximum density.

The developer has appealed. For the reasons explained in this opinion, we will affirm the judgment reversing the District Council's decision.

FACTUAL AND PROCEDURAL BACKGROUND

A. Applications for Zoning Changes on the Subject Property

This appeal is the latest in an ongoing series of disputes over the zoning regulations for a property located in the City of Hyattsville in Prince George's County. The property includes two parcels separated by a public road. The upper parcel, approximately 3.6 acres in size, formerly served as the site of the headquarters for the Washington Suburban Sanitary Commission (WSSC). The lower parcel, approximately

4.66 acres in size, formerly served as the site of a parking lot for the WSSC headquarters.

A significant (but undetermined) percentage of the lower parcel lies within the County's 100-year floodplain. The zoning ordinance defines the 100-year floodplain as "[t]hat area of land which would be covered by a flood that has a one percent (1%) chance of being equalled or exceeded in any year[.]" Prince George's County Code ("PGCC") § 27-107.01(a)(90).[1] This area "is delineated on a County comprehensive watershed management study[.]" PGCC § 27-124.01(a). Most development is prohibited or heavily restricted in the 100-year floodplain. *See* PGCC §§ 32-202 to 32-212.

In 2004, the Prince George's County Council, sitting as the District Council, approved a sector plan for the Gateway Arts District, which covers the City of Hyattsville and other municipalities. *See* 2004 Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District. The sector plan defines distinct "character areas" (*id.* at 17), each with its own "Development District Standards" that regulate building design and other matters. *Id.* at 135. The sector plan assigned the subject property to the "traditional residential neighborhood" character area, which is reserved primarily for single-family housing on land zoned for detached

[1] A new zoning ordinance for Prince George's County took effect on April 1, 2022, replacing a former version. *See generally County Council of Prince George's County v. Robin Dale Land LLC*, 263 Md. App. 1, 11 (2024), *aff'd*, 491 Md. 105 (2025). The new zoning ordinance does not apply retroactively to applications submitted before the effective date of the new zoning ordinance. *See Wolf v. Planning Bd. of Prince George's County*, 260 Md. App. 103, 108 n.2 (2023). In this opinion, references to the zoning ordinance refer to the former version of Title 27 of the Prince George's County Code, in effect prior to April 2022. *Available at* https://online.encodeplus.com/regs/princegeorgescounty-md-zm/doc-viewer.aspx#secid-94.

residences or townhouses. *See id.* at 26-27, 138.

To implement the sector plan, the District Council enacted a sectional map amendment that comprehensively rezoned the Gateway Arts District. *See* 2004 Approved Sector Plan and Sectional Map Amendment, at 107. The sectional map amendment imposed an overlay zone known as the Development District Overlay (D-D-O) zone on the Gateway Arts District. *Id.* at 113. The D-D-O zone "is a mapped zone which is superimposed . . . over other zones . . . and may modify development requirements within the underlying zones." PGCC § 27-548.19.

At the same time, the sectional map amendment changed the underlying zones for many properties. Before the sectional map amendment, both parcels of the subject property were assigned to the "R-55" or "One-Family Detached Residential" zone. *See* PGCC § 27-430. The sectional map amendment retained the upper parcel in the R-55 zone but reclassified the lower parcel to the "O-S" or "Open Space" zone, a classification intended to preserve natural resources. In the O-S zone, development is permitted at a significantly lower density relative to other residential zones. *See* PGCC § 27-425(a).

Sometime after the 2004 comprehensive rezoning, a real estate development company known as Werrlein WSSC, LLC ("Werrlein"), acquired the subject property. Werrlein intended to remove the vacant WSSC headquarters and parking lot and to redevelop the property with detached residences and townhouses. The zoning classifications did not permit the property to be used for townhouses. *See* PGCC § 27-441(b)(7) (providing that townhouses are not permitted in the R-55 zone except under certain narrow circumstances and generally are not permitted in the O-S zone).

In March 2018, Werrlein submitted an application (designated as CSP-18002) to the Prince George's County Planning Board, requesting certain zoning changes under PGCC § 27-548.26. That provision states, in relevant part, that an owner of property located in the D-D-O zone "may request changes to the underlying zones or the list of allowed uses, as modified by the Development District Standards." PGCC § 27-548.26(b)(1)(B). Werrlein asked to change the allowed uses to permit townhouses on the property. Werrlein later submitted an amended application, asking to change the zoning of the lower parcel to either the R-55 zone or the R-10A ("Multifamily High Density Residential – Efficiency") zone. In a second amended application, Werrlein asked to change the zoning of both parcels to the M-U-I ("Mixed Use – Infill") zone.

Werrlein submitted a conceptual site plan along with the applications. Werrlein proposed to develop 31 units (a mix of detached residences and townhouses) on the upper parcel and 41 units (townhouses only) on the lower parcel. Nothing in the record indicates that the applications included a specific request to change the density regulations. Although Werrlein identified the gross areas for both parcels, Werrlein did not provide information about the net lot area of either parcel, i.e., the gross area minus the area covered by public ways or located within the 100-year floodplain. *See* PGCC § 27-107.01(a)(161).

B. First Rezoning Decision by the District Council

The Prince George's County zoning ordinance requires a multi-step review process when a property owner requests zoning changes for a property in the Development District Overlay zone. First, the Planning Board's technical staff must

review the application and issue a written report. PGCC § 27-548.26(b)(3). Next, the Planning Board must hold a public hearing and make a recommendation to the District Council. *Id.* The District Council must hold a public hearing when it reviews the Planning Board's decision. *See* PGCC §§ 27-280(c), 27-548.26(b)(3). Ultimately, the District Council may approve, conditionally approve, or disapprove the application. PGCC § 27-548.26(b)(5). To approve an application, the District Council must "find that the proposed development conforms with the purposes and recommendations for the Development District, . . . meets applicable site plan requirements, and does not otherwise substantially impair the implementation of any comprehensive plan applicable to the subject development proposal." *Id.*

After a review of Werrlein's applications, the Planning Board's staff recommended rezoning the lower parcel to the R-55 zone and adding townhouses to the allowed uses. The staff report observed that, under the zoning ordinance, Development District Standards for the D-D-O zone "may not permit density in excess of the maximum permitted in the underlying zone." PGCC § 27-548.23(b). The report recommended that the maximum density for one-family detached residences should be "consistent with the maximum allowed density of 6.7 dwelling units per *gross acre* in the R-55 Zone[.]" (Emphasis added.) In fact, however, the maximum density for townhouses in the R-55 zone is 6.7 dwelling units per *net acre* of net lot or tract area. *See* PGCC § 27-442(h). As mentioned previously, net lot area excludes public ways or land within the 100-year floodplain. PGCC § 27-107.01(a)(161).

The staff report noted that Werrlein was "proposing density for [townhouses] at

nine dwelling units per gross acre." The report recommended that townhouses, "which do not have a density limitation in the R-55 Zone because they are not generally permitted, be allowed at nine dwelling units per *gross acre*." (Emphasis added.)

After a hearing, the Planning Board adopted a resolution recommending that the District Council rezone the lower parcel to the R-55 zone and permit townhouses on the property. The resolution further stated: "The maximum density for single-family attached [residences] is 9 dwelling units per acre and the maximum density for single-family detached [residences] is as permitted in the R-55 zone, or 6.7 dwelling units per acre."

The City of Hyattsville objected to the Planning Board's recommendations. A group of Hyattsville residents, including Julie Wolf, also raised objections. Among other arguments, the Wolf parties argued that the District Council should not allow any density exceeding 6.7 dwelling units per net acre of net lot area, the maximum density for one-family detached residences in the R-55 zone.

Before making a final decision, the District Council remanded the matter to the Planning Board for a limited review of specific issues. The District Council directed the Planning Board to "provide supplemental analysis" for its recommendation to rezone the lower parcel and to "provide supplemental analysis and explanation of the maximum densit[ies] per acre" for one-family detached residences and for townhouses.

On remand, the Planning Board received a supplemental memorandum from its staff and held another hearing. Two commissioners voted in favor of the requested zoning changes, two commissioners voted against the requested zoning changes, and one

commissioner was absent. The Planning Board forwarded the application to the District Council without any recommendation.

After another hearing, the District Council issued a final decision on June 10, 2019, approving Werrlein's application and conceptual site plan subject to certain conditions. The District Council granted the requests to change the underlying zone of the lower parcel to the R-55 zone and to change the list of allowed uses to permit townhouses on the property. The District Council found that those proposed changes satisfied the approval criteria set forth in PGCC § 27-548.26(b)(5). Specifically, the District Council stated that changing the underlying zone of the lower parcel to R-55 and adding townhouses to the list of allowed uses would benefit the proposed development, would further the purposes of the Development District, and would not substantially impair the implementation of the sector plan or any applicable comprehensive plan.

In its decision, the District Council also endorsed maximum densities of "6.7 dwelling units per acre (as permitted in R-55) for single-family detached" residences and "9 dwelling units per acre" for townhouses. The District Council stated that allowing those maximum densities would benefit the proposed development, would further the purposes of the Development District, and would not substantially impair the implementation of the sector plan or the applicable comprehensive plan.

C. Judicial Review of the First Rezoning Decision

The City of Hyattsville and the Wolf parties petitioned for judicial review of the District Council's decision in the Circuit Court for Prince George's County. After consolidating the two actions, the circuit court affirmed the District Council's decision.

The City of Hyattsville and the Wolf parties appealed to this Court.

In a reported opinion, this Court vacated the judgment affirming the District Council's decision. *City of Hyattsville v. Prince George's County Council*, 254 Md. App. 1, 70 (2022). This Court upheld the decision insofar as it changed the zoning of the lower parcel and added townhouses to the list of allowed uses. *Id.* at 10. This Court directed the circuit court to remand the matter for the District Council to "reconsider its decision regarding the density of development permitted on the property." *Id*.

The *City of Hyattsville* opinion generally confirmed that the District Council has authority under PGCC § 27-548.26(b) to change the underlying zoning classification and the allowed uses for properties in the Development District Overlay zone. This Court held that the District Council had original jurisdiction to decide whether to approve the requested zoning changes. *City of Hyattsville v. Prince George's County Council*, 254 Md. App. at 27. This Court concluded that the District Council could properly approve the requested zoning changes if it determined that the application satisfied the criteria set forth in PGCC § 27-548.26(b). *Id.* at 52. This Court further concluded that there was substantial evidence in the record to support the conclusions that rezoning the lower parcel to the R-55 zone and adding townhouses to the list of allowed would satisfy the approval criteria. *Id.* at 58-59.

The final section of the opinion concerned the District Council's decision to change the density regulations for the property. The Wolf parties[2] challenged that

[2] Julie Wolf was part of the group of Hyattsville residents who petitioned for judicial review in the earlier action. Ms. Wolf is the first person listed as a petitioner in

decision based on a provision that restricts the District Council's authority to modify density regulations in the Development District Overlay zone. This provision states: "Development District Standards may not permit density in excess of the maximum permitted in the underlying zone." PGCC § 27-548.23(b). The Wolf parties observed that, in the underlying R-55 zone, one-family detached residences have a maximum density of 6.7 dwelling units per net acre. *See* PGCC § 27-442(h). The Wolf parties argued that allowing "6.7 dwelling units per acre" for one-family detached residences and "9 dwelling units per acre" for townhouses would exceed the maximum densities permitted in the R-55 zone. *City of Hyattsville v. Prince George's County Council*, 254 Md. App. at 64-65.

As the Wolf parties observed, the zoning ordinance defines "[d]ensity" as a "number of 'Dwelling Units' per acre of 'Net Lot Area.'" PGCC § 27-107.01(a)(66). The zoning ordinance provides a table setting forth density regulations for each residential zone. PGCC § 27-442(h). That table expresses each density as a number of "Maximum Dwelling Units Per Net Acre of Net Lot/Tract Area." *Id.* The term "Net Lot Area" means the "total contiguous area" of a lot, "excluding: (i) 'Alleys,' 'Streets,' and other public ways; and (ii) Land lying within a 'One Hundred (100) Year Floodplain[.]'" PGCC § 27-107.01(a)(161). Thus, if a lot includes any public ways or land in the 100-year floodplain, the net lot area will be less than the gross area.

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the present action, but Sarah Eisen was the first person listed as a petitioner in the earlier action. Although this opinion refers to the group as "the Wolf parties," the *City of Hyattsville* opinion referred to them as "the Eisen parties."

This Court concluded that the decision to allow "6.7 dwelling units per acre" for one-family detached residences exceeded the maximum density permitted in the underlying R-55 zone. *City of Hyattsville v. Prince George's County Council*, 254 Md. App. at 65. This Court also held that the District Council "erred in failing to express the maximum density for one-family detached dwellings as 6.7 dwelling units per net acre of net lot or tract area." *Id.* at 65-66.

This Court concluded that the decision to allow "9 dwelling units per acre" for townhouses did not exceed the maximum density in the underlying zone, because the zoning ordinance provided no maximum density for townhouses in the R-55 zone. *City of Hyattsville v. Prince George's County Council*, 254 Md. App. at 66. This Court reasoned that, "where the District Council adds a type of dwelling unit to the list of allowed uses" under PGCC § 27-548.26 and "where the underlying zone establishes no maximum density for that type of dwelling unit, the District Council must establish one in the first instance." *Id.* at 66-67. This Court identified two restrictions on this authority to establish an entirely new maximum density. *Id.* at 67. First, PGCC § 27-548.23(b) provides that the District Council "may modify density regulations only to meet the goals of the Development District and the purposes of the D-D-O Zone." In addition, to amend any Development District Standards, the District Council must find that "the amended standards will benefit the proposed development, will further the purposes of the applicable Development District, and will not substantially impair implementation of any applicable Master Plan or Sector Plan." PGCC § 27-548.26(b)(1)(B)(ii).

This Court observed that the Wolf parties had made "no direct challenge to the

District Council's express finding that allowing a density of '9 dwelling units per acre' for townhouses satisfied the criteria for approving amendments to the Develop District Standards." *City of Hyattsville v. Prince George's County Council*, 254 Md. App. at 67. This Court nevertheless agreed that the District Council "erred to the extent that it approved a density in terms of 'dwelling units per acre' rather than 'net acre,' as required by the zoning ordinance." *Id.* This Court noted: "This error may be significant for a property on which the number of net acres may be substantially less than the total acreage of the property." *Id.* This Court further noted that, "[u]nless corrected, the error here in overstating the density allowed on the property m[ight] continue to affect" subsequent land-use decisions for the property. *Id.* at 69. This Court explained that, consistent with the zoning ordinance, the new density established for townhouses should be expressed "as a specific number of dwelling units per net acre of net lot or tract area." *Id.* at 67 (citing PGCC §§ 27-107.01(a)(66), 27-442(h)).[3]

In light of that error, this Court vacated the judgment and remanded the case to the

[3] In their appellate brief, the Wolf parties assert that it is incorrect to express residential density as "dwelling units per net acre of net lot or tract area." *City of Hyattsville v. Prince George's County Council*, 254 Md. App. at 69-70. The Wolf parties argue that residential density should be "based on dwelling units per acre of net lot area, *not* per acre of net lot area 'or net tract area.'" (Emphasis in original.) According to the Wolf parties, the concept of net tract area "is not applicable here." Nevertheless, the zoning ordinance expresses *all* residential densities as: "Maximum Dwelling Units Per Net Acre of Net Lot/Tract Area[.]" PGCC § 27-442(h). The *City of Hyattsville* opinion determined that any new densities established under PGCC § 27-548.26 should be stated no differently than all other densities in the zoning ordinance. Consistency with zoning ordinance is especially important in this context, because the District Council may not allow any density "in excess of the maximum permitted in the underlying zone." PGCC § 27-548.23(b).

circuit court. *City of Hyattsville v. Prince George's County Council*, 254 Md. App. at 70. This Court directed the circuit court to affirm the decision in part, to reverse the decision in part, and to remand the matter to the District Council for further proceedings. *Id.* The opinion concluded with the following instructions:

> The decision must be reversed to the extent that it modified the density regulations on the subject property to allow "6.7 dwelling units per acre . . . for single-family detached units" and "9 dwelling units per acre . . . for single-family attached units." The District Council may not allow a density for one-family detached dwelling units that exceeds 6.7 dwelling units per net acre of net lot or tract area. The District Council may establish a density for townhouses that is different from the density for one-family detached dwelling units, but the District Council may do so only to meet the goals of the Development District and the purposes of the D-D-O Zone. The density that the District Council establishes for townhouses must be expressed as a number of dwelling units per net acre of net lot or tract area.

City of Hyattsville v. Prince George's County Council, 254 Md. App. at 69-70.

D. District Council Proceedings on Remand

After this Court issued its opinion, Werrlein, the District Council, and the City of Hyattsville jointly moved for an order of remand. The circuit court issued an order remanding the matter to the District Council, "consistent with" this Court's appellate opinion, "on the issue of density on the subject property."

The clerk of the District Council sent notice to counsel for all parties to the judicial review actions that the District Council would consider the issue of "density on the subject property" at a public meeting on July 12, 2022. The notice specified: "This is not a notice of oral argument."

One day before the scheduled meeting, the Wolf parties sent a letter to the District Council, objecting to its refusal to permit any evidence or arguments on remand. The

Wolf parties noted that they "ha[d] not been consulted as to the procedure on [r]emand, ha[d] not approved the procedure, and ha[d] not been invited to submit a memorandum for District Council consideration on [r]emand." The Wolf parties argued that they were entitled to "a fair opportunity to present relevant information and argument" before the District Council made its new decision on the maximum densities for the property. Specifically, the Wolf parties argued that they were entitled to a fair opportunity to respond to whatever recommendations the District Council's staff might make on issues such as net lot area or maximum density.[4] By a separate letter, the City of Hyattsville adopted the same objections made by the Wolf parties.

At the scheduled meeting, the District Council called the Werrlein application as its first agenda item. The District Council announced that it would consider a "[s]taff orientation" about the issues to be decided on remand.

The District Council first heard from David Warner, principal counsel for the Maryland-National Capital Park and Planning Commission. Mr. Warner stated that the purpose of the remand was for the District Council "to correctly express . . . the approved density" in terms of net acreage. Mr. Warner announced that "the Planning Department continued to recommend . . . and w[ould] continue to recommend" a maximum density of 6.7 dwelling units per net acre for one-family detached residences. Mr. Warner

[4] The Wolf parties further asserted that, through a Public Information Act request, they had obtained a copy of an email that described a communication between Werrlein's attorney and principal counsel to the District Council. In that email, Werrlein's attorney stated that he had "spoken with the Council's attorney" and that the Council's attorney had "agree[d]" that the Council would "address" density in a way that would "keep the 72 units overall" proposed in the conceptual site plan.

continued:

> And then for single-family attached, the Planning Department evaluated the density that the Council approved, which was 9 dwelling units per acre, and determined that the approximate density of 9 dwelling units per acre or gross acre would be 12.3 dwelling units per net acre of net lot or tract area. So those are the two densities that the Planning Department will be recommending.

Mr. Warner noted that Werrlein was proposing to develop 31 dwelling units on the upper parcel (16 one-family detached residences and 15 townhouses) and 41 dwelling units (townhouses only) on the lower parcel, for a total of 72 dwelling units. Mr. Warner opined that this development proposal "w[ould] be permissible under the densities being recommended by the Planning Department." Mr. Warner further opined that this recommendation would "remain consistent" with "the findings made along with the Planning Department's original recommendation" to approve the conceptual site plan, which proposed to develop 72 dwelling units.

The District Council next heard from Jill Kosack from the Urban Design section of the Planning Department. Ms. Kosack stated:

> . . . [J]ust to build on what Mr. Warner said, again, for townhouses in this [Conceptual Site Plan], the previously approved density of 9 dwelling units per acre would equate to a density of 12.30 dwelling units per net acre of net lot or tract area. To determine that acreage, you must subtract the floodplain on the property, which is why the density number is larger when expressing it in this way.
>
> The new number would still result in the 72 total dwelling units as was approved with the Conceptual Site Plan and previously found to meet the goals of the Development District and the D-D-O. So again, in accounting for the floodplain on the property, the density for the townhouses, as expressed as dwelling units per net acre of net lot or tract area, would be 12.30.

The District Council next asked Stan Brown, People's Zoning Counsel,[5] to provide a "procedural orientation" for the case. Mr. Brown stated that, to his understanding, "[t]his particular proceeding [was] not an oral argument nor [was] it an evidentiary hearing nor [was] it a request for a recommendation from the Planning Board or its staff." Mr. Brown stated that the record had already closed years earlier. Mr. Brown opined that "the comments . . . concerning a recommendation by the Planning Board really should be stricken" from the record.

Mr. Brown stated that, to his understanding, the District Council needed to undertake one "ministerial act" and one "discretionary act." According to Mr. Brown, the "ministerial act" was to correct an "inadvertent . . . oversight" in the previous decision, by expressing the approved maximum densities in terms of "net acreage[.]" Mr. Brown stated that, when making the "discretionary" choice of a maximum density, the District Council needed to "determine whether or not that new maximum density is in compliance with the D-D-O and the Development District Plan." Finally, Mr. Brown advised the District Council that it should not remand the matter to the Planning Board and that it should not receive any additional evidence.[6]

One Council member, Mr. Dernoga, stated that he agreed with "everything Mr.

[5] People's Zoning Counsel serves to "protect the public interest and promote a full and fair presentation of relevant issues in administrative proceedings in order to achieve balanced records upon which sound land use decisions can be made." PGCC § 27-136; *see generally County Council of Prince George's County v. Zimmer Dev. Co.*, 444 Md. 490, 548 n.57 (2015).

[6] A few moments later, principal counsel for the District Council opined that Mr. Brown was "correct on all fronts procedurally."

Brown said except" the comment about the need for an evidentiary hearing. Mr. Dernoga remarked that it was not appropriate to consider the Planning Department's recommendation, because doing so would be "essentially entering new evidence into the record." Mr. Dernoga stated that, although there had been "a fair amount of discussion about density" during the earlier proceedings, the question of the appropriate maximum density, in terms of dwelling units per net acre, was "not properly before the Council" in those earlier proceedings.

Mr. Dernoga opined that the District Council needed to make additional factual findings before it could properly decide the new maximum density. Mr. Dernoga suggested that the appropriate procedure was to remand the matter to the Planning Board for an evidentiary hearing on that issue. Mr. Dernoga stated that "this discretionary issue" should be "argued by the parties in the appropriate forum[,]" rather than decided based on the pre-existing record.

After those discussions, the District Council granted a motion to take the matter under advisement and to place the matter on its agenda on a later date.

E. Second Rezoning Decision by the District Council

The District Council revisited the matter at a meeting on September 19, 2022. One Council member moved to direct the District Council's staff "to prepare an order establishing density" for the property. The motion specified that the order should provide that "density for one-family detached dwelling units should not exceed 6.7 dwelling units per net acre" and that "density for townhouse dwelling units should not exceed 12.3 dwelling units per net acre[.]" The District Council granted the motion without

discussion of the basis for establishing those maximum densities.

During a meeting on October 17, 2022, the District Council voted to adopt the written decision as prepared by the District Council's staff. The written decision stated that the purpose of the remand proceedings was "to express density" in terms of net acre of net lot or tract area. The District Council ordered that "[d]ensity for [o]ne-[f]amily detached dwelling units shall not exceed 6.7 dwelling units per net acre of net lot or tract area" and that "[d]ensity for [t]ownhouse dwelling units shall not exceed 12.3 dwelling units per net acre of net lot or tract area."

The written decision included summaries of the procedural history, the goals of the Development District, the purposes of the D-D-O zone, and certain considerations from the General Plan for Prince George's County. The decision mentioned the approximate actual densities of one-family detached residences and multi-family apartment buildings on adjoining properties. The decision also mentioned the maximum densities permitted for one-family detached residences and for townhouses in certain other residential zones throughout the County. Finally, the decision noted that, in June 2022, the Planning Board approved a preliminary plan of subdivision for "41 total townhouse lots for the lower parcel, based on the existing approved [conceptual site plan]."

After that discussion, the District Council stated the following conclusion:

> Under circumstances such as these, density for one-family detached not to exceed 6.7 dwelling units per net acre of net lot or tract area and density for townhouses not to exceed 12.3 dwelling units per net acre of net lot or tract area[] will meet the goals of the [Traditional Residential Neighborhood] and purposes of the D-D-O zone. Such density will also benefit the

> proposed development, will further the purposes of the [Traditional Residential Neighborhood], and will not substantially impair implementation of any Master Plan or Sector Plan.

The District Council further concluded that "[s]etting density (not to *exceed* a *range* of *maximum* density) for the subject property" would meet the goals of the traditional residential neighborhood character area and would further the purposes of the Development District. (Emphasis in original.)

F. Judicial Review of the Second Rezoning Decision

The Wolf parties petitioned for judicial review of the District Council's new density decision. The Wolf parties contended that the circuit court should reverse the decision for two, related reasons: (1) the District Council failed to hold a public hearing before making its decision; and (2) the decision was not supported by substantial evidence in the record.

In support of their petition, the Wolf parties argued that the zoning ordinance requires both the Planning Board and the District Council to hold public hearings when a property owner applies to change zoning requirements for property in the Development District Overlay zone. The Wolf parties argued that, because the remand instructions required the District Council to substantively reconsider the issue of maximum density, both the Planning Board and the District Council should have held new hearings on the issues to be decided on remand.

The Wolf parties observed that, although they were parties to the judicial review action, the District Council did not permit them to present any evidence or arguments during the remand proceedings. The Wolf parties also observed that, at the first meeting,

representatives from the Planning Department "simply told the District Council what density the Planning Department recommended." The Wolf parties observed that, at the second meeting, the District Council simply directed its staff to prepare an order establishing the same maximum densities recommended by the Planning Department, without any substantive discussion. At the third meeting, the District Council simply adopted that order as prepared by its staff, again without substantive discussion.

The Wolf parties contended that the final decision was "not supported by any evidence, much less substantial evidence, in the record." The Wolf parties asserted that there was no evidence to support a conclusion that 9.0 dwelling units per gross acre somehow "translates" to 12.3 dwelling units per net acre. The Wolf parties observed that, contrary to the assertions made by the Planning Department, there is no mathematical formula than can be used to convert a ratio of maximum dwelling units per acre into a ratio of maximum dwelling units per net acre. The Wolf parties observed that the Planning Department failed to disclose its apparent determination of the net lot area of the lower parcel or to explain how it made that determination. The Wolf parties further observed that the record did not include the information needed to determine the net lot area (i.e., the gross area, excluding public ways and land within the 100-year floodplain). The Wolf parties argued that the District Council did not remedy the defects in its decision when it adopted a document purporting to conclude that the recommended maximum density of 12.3 dwelling units per net acre for townhouses would satisfy the approval criteria set forth in the zoning ordinance.

Werrlein opposed the petition. Werrlein argued that the *City of Hyattsville*

opinion required the District Council to resolve only a few "narrow, technical issues[.]" Werrlein argued that, because the Planning Board and the District Council previously held public hearings in 2018 and 2019 on all issues, including density, the District Council did not need to hold any new hearings after the remand. Werrlein argued that the pre-existing record included substantial evidence to support a decision on the maximum densities that should be permitted on the property. In addition, Werrlein argued that the written decision adequately explained the conclusion that the new maximum densities would further the purposes of the Development District and the purposes of the D-D-O zone.

The District Council also opposed the petition. The District Council argued that the *City of Hyattsville* opinion required the District Council to "express the overall density of 72 dwelling units in terms of *net* acre as opposed to *gross* acre." (Emphasis in original.) The District Council argued that, at the time of the 2019 decision, the record already included sufficient evidence to support approving what the District Council called "the Applicant's proposed overall density" of 72 dwelling units on a property with 8.26 gross acres. The District Council argued that "no evidentiary hearing, new evidence, or participation by [the Wolf parties] was required for the District Council to express overall density for the development in terms of *net* acre as opposed to *gross* acre—based on the same record." (Emphasis in original.)

On July 3, 2024, the circuit court heard arguments from the Wolf parties, Werrlein, and the District Council.

During the hearing, Raj Kumar, principal counsel to the District Council, told the

court that he personally drafted the decision that the District Council approved in 2019. Mr. Kumar represented that he simply made a drafting "mistake" by expressing the maximum densities as a number of dwelling units per acre rather than dwelling units per net acre. Mr. Kumar surmised that, if he had included the word "net" in his draft, then the decision would have been affirmed in its entirety and there would have been no need for any remand.

The circuit court pointed out that, on remand, the District Council did more than simply change the maximum density for townhouses from 9.0 dwelling units per acre to 9.0 dwelling units per net acre. The court repeatedly asked Mr. Kumar to explain why the District Council increased the value of dwelling units in the approved density from 9.0 units to 12.3 units. Mr. Kumar provided no direct response to the court's inquiries. Instead, Mr. Kumar emphasized that the District Council's decision simply "set[] a range" of densities for the developer "not to exceed[.]"

The court observed that, to generate the particular number of 12.3, "someone somewhere" must have "estimated" the net lot area of the lower parcel and then divided the number of proposed dwelling units by that estimated net lot area. The court asked whether the District Council provided "any discussion or any explanation" of why it increased the number of dwelling units per net acre to 12.3, "[o]ther than someone saying" that number. As part of his response, Mr. Kumar asserted that nine dwelling units per gross acre "translates to" 12.3 dwelling per net acre. The court asked: "So that means that somebody has a net number that they used to come up with the 12.3. Right? Is that explained?" Mr. Kumar again offered no direct response, but he stated that the

actual net lot area would be determined in later land-use proceedings, after Werrlein submitted a detailed site plan.

G. Judgment in the Second Judicial Review Action

On September 30, 2024, the circuit court issued a memorandum opinion and order by which it vacated the District Council's decision and remanded the matter to the District Council for an evidentiary hearing.

In its memorandum opinion, the circuit court stated that the *City of Hyattsville* opinion required the District Council "to 'establish' density, not to simply 'express' it." The court wrote that, despite the instructions "mandating that the District Council 'establish' the maximum densities for one-family detached residences and townhouses," the District Council interpreted the opinion to require "a 'ministerial act' of just restating the density" in terms of dwelling units per net acre. The court wrote: "The determination of density . . . had to be supported by substantial evidence rather than a mere mathematical extrapolation that would allow the developer to fit the same number of houses on [a] smaller amount of land."

The circuit court concluded that the District Council "erred by not conducting a hearing" even though it made "a factual determination" about the net lot area of the property. The court observed that "no evidence was received on remand to establish facts in support of the [Council's] conclusion" on this issue. The court noted that there was "no calculation in the record that shows [that] the District Council calculated the total acreage of the lot and subtracted out the acreage covered by the 100-year floodplain, roadways, sideways, and walkways." The court concluded that the District Council's

"final decision was not supported by substantial evidence" in the record.

The circuit court vacated the District Council's decision "establishing density for townhouse dwelling units not exceeding 12.3 dwelling units per net acre of net lot or tract area[.]" The court remanded the matter for the District Council "to hold a hearing" and to "establish densities for one-family detached residences and for townhouses, expressed as a number of dwelling units per net acre of net lot or tract area" as required by the *City of Hyattsville* opinion.

Werrlein noted a timely appeal. The Wolf parties did not file any notice of appeal or notice of cross-appeal.

G. Other Land-Use Proceedings Concerning the Property

Meanwhile, before resolution of the ongoing legal challenges to the rezoning decisions, Werrlein sought additional land-use approvals for the upper parcel and lower parcel.[7]

Land-Use Approvals for the Upper Parcel

In December 2019, Werrlein applied for approval of a preliminary plan of subdivision (PPS 4-18001) for 31 residential lots on the upper parcel. The Planning Board approved the application in April 2020. The Wolf parties petitioned for judicial review, arguing, among other things, that the number of dwelling units in the approved preliminary plan of subdivision exceeded the maximum permitted under the density

[7] Where the zoning ordinance requires a conceptual site plan or detailed site plan, the ordinance requires the following order of approvals: (1) zoning; (2) conceptual site plan; (3) preliminary plan of subdivision; (4) detailed site plan; (5) final plat of subdivision; and (6) grading, building, use and occupancy permits. PGCC § 27-270(a).

regulations. The circuit court affirmed the Planning Board's decision. The Wolf parties appealed, and this Court affirmed the judgment. *Wolf v. Planning Board for Prince George's County*, 260 Md. App. 103, 107-08 (2023).

In that appeal, the Wolf parties contended that the upper parcel "could not support the proposed number of dwellings and still comply with the Zoning Ordinance once public ways were excluded from the available acreage." *Wolf v. Planning Board for Prince George's County*, 260 Md. App. at 118. In response, the Planning Board argued that, when evaluating a preliminary plan of subdivision, the Planning Board was not required to determine whether the proposal fully complied with all applicable zoning regulations. *Id.* For its part, Werrlein asserted that the actual density of the property would be "calculated at the Detailed Site Plan stage" rather than at the preliminary plan of subdivision stage. *Id.* This Court concluded that the purportedly incorrect density calculation was not a basis to overturn the approval of the preliminary plan of subdivision. *Id.* at 119. This Court noted that the Planning Board's decision made it clear that the actual density of the upper parcel "would be fully considered at a later stage" of the land-use approval process. *Id.* at 120.

In April 2020, Werrlein submitted a detailed site plan (DSP-18005) proposing to develop 16 one-family detached residences and 15 townhouses on the upper parcel. The Planning Board approved the detailed site plan, subject to certain conditions. After the Wolf parties challenged the decision, the District Council also approved the detailed site plan with certain conditions. The Wolf parties filed a petition for judicial review, but the circuit court dismissed their action because of their failure to file a timely memorandum

under Md. Rule 7-207.

As of the date of this opinion, the upper parcel has already been developed with detached residences and townhouses. Nevertheless, the maximum residential densities for the entire property (including the upper parcel) remain at issue in the present appeal.

Land-Use Approvals for the Lower Parcel

In February 2022, Werrlein applied for approval of a preliminary plan of subdivision (PPS 4-21052) for 41 residential lots on the lower parcel. The Planning Board approved the preliminary plan of subdivision, and the Wolf parties petitioned for judicial review. The circuit court dismissed the action on the ground that it was untimely.

In October 2022, Werrlein applied for approval of a detailed site plan (DSP-21001), proposing to develop 41 townhouses on the lower parcel. Werrlein represented that, once it obtained a floodplain waiver, the floodplain would account for 1.29 acres of the 4.66-acre parcel, and therefore the net lot area would be 3.37 acres. The Planning Board conditionally approved the detailed site plan.

After electing to review that decision, the District Council concluded that Werrlein's application had relied on an invalid floodplain waiver and that the resulting density calculation was incorrect. The District Council directed Werrlein to withdraw the application or to submit a revised detailed site plan with a density calculation worksheet explaining the determination of the net lot area for the lower parcel. The District Council disapproved the detailed site plan in March 2024, finding that Werrlein had failed to submit a revised site plan in compliance with the District Council's order.

Werrlein has petitioned for judicial review of the decision disapproving the

detailed site plan for the lower parcel. *In the Matter of Werrlein, LLC*, No. C-16-CV-24-001461 in the Circuit Court for Prince George's County. At the request of the District Council, the circuit court stayed that action pending the outcome of this appeal.

As of the date of this opinion, the lower parcel has not been redeveloped.

DISCUSSION

On appeal from the judgment in a judicial review action, this Court's "role is to repeat the task of the circuit court" by evaluating the underlying agency decision. *Colao v. County Council of Prince George's County*, 109 Md. App. 431, 458 (1996) (citing *Cox v. Prince George's County*, 86 Md. App. 179, 187 (1991)). This Court evaluates an agency's decision under the same standards used by the circuit court. *See Grant v. County Council of Prince George's County*, 465 Md. 496, 509 (2019) (citing *People's Counsel for Baltimore County v. Loyola Coll. in Md.*, 406 Md. 54, 66 (2008)).

Maryland Code (2012, 2024 Supp.), § 22-407 of the Land Use Article ("LAND USE") governs the review of a final decision by the Prince George's County District Council. Under this section, the circuit court may:

> (1) affirm the decision of the district council;
>
> (2) remand the case for further proceedings; or
>
> (3) reverse or modify the decision if the substantial rights of the petitioner have been prejudiced because the district council's action is:
>
> > (i) unconstitutional;
> >
> > (ii) in excess of the statutory authority or jurisdiction of the district council;

(iii) made on unlawful procedure;

(iv) affected by other error of law;

(v) unsupported by competent, material, and substantial evidence in view of the entire record as submitted; or

(vi) arbitrary or capricious.

LAND USE § 22-407(e).

"Quasi-judicial decisions[,]" such as the decision under review in this case, "may be reversed or modified under any of the . . . circumstances" identified in LAND USE § 22-407(e)(3). *Prince George's County Council v. Concerned Citizens of Prince George's County*, 485 Md. 150, 178 (2023) (citing *Town of Upper Marlboro v. Prince George's County Council*, 480 Md. 167, 180-81, 190 (2022)). A reviewing court will reverse the decision of a local zoning body if it is "'based on an erroneous interpretation or application of the zoning statutes, regulations, and ordinances relevant and applicable to the property that is the subject of the dispute.'" *Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore County*, 407 Md. 53, 78 (2008) (quoting *People's Counsel for Baltimore County v. Surina*, 400 Md. 662, 682 (2007)). In addition, a decision should be reversed if the local zoning body failed to hold a hearing where one was required by law. *See County Council of Prince George's County v. Robin Dale Land LLC*, 491 Md. 105, 160-61 (2025).

Judicial review of a piecemeal rezoning decision "entails determining whether the fact-finding process has been properly pursued and whether the evidence of record supports the agency's decision." *Anderson House, LLC v. Mayor & City Council of*

Rockville, 402 Md. 689, 708 n.17 (2008) (citing *Maryland Overpak Corp. v. Mayor & City Council of Baltimore*, 395 Md. 16, 40 (2006)). When reviewing factual findings, the reviewing court "'cannot substitute its judgment for that of the agency'" and ordinarily "'must accept the agency's conclusions'" as long as "'reasoning minds could reach the same conclusion based on the record[.]'" *Colao v. County Council of Prince George's County*, 109 Md. App. at 458 (quoting *Columbia Road Citizens' Ass'n v. Montgomery County*, 98 Md. App. 695, 698 (1994)). If the facts in the record do not reasonably support the agency's conclusion, the conclusion "'falls into the category of being arbitrary[] [or] capricious[.]'" *Ocean Hideaway Condo. Ass'n v. Boardwalk Plaza Venture*, 68 Md. App. 650, 665 (1986)) (quoting *Neuman v. City of Baltimore*, 23 Md. App. 13, 14 (1974)). "'Arbitrary or capricious' decision-making" occurs when an agency makes its decision "according to individual preference rather than motivated by a relevant or applicable set of norms." *Harvey v. Marshall*, 389 Md. 243, 299 (2005).

Although the agency's express findings deserve deference, it is not the role of the reviewing court to search for any and all reasons that might support the decision. *See People's Counsel for Baltimore County v. Beachwood I Ltd. P'ship*, 107 Md. App. 627, 662-63 (1995) (citing *People's Counsel for Baltimore County v. Mockard*, 73 Md. App. 340, 348-49 (1987)). Rather, a reviewing court "may not affirm" an administrative agency's decision "on grounds on which the agency itself did not rely in making its decision." *People's Counsel for Baltimore County v. Surina*, 400 Md. at 687 n.26. In other words, the court "'may not uphold the agency order unless it is sustainable *on the agency's findings and for the reasons stated by the agency*.'" *Colao v. County Council of*

Prince George's County, 109 Md. App. at 463 (emphasis in original) (quoting *United Parcel Serv. v. People's Counsel for Baltimore County*, 336 Md. 569, 577 (1994)) (further citation and quotation marks omitted).

When a local zoning body makes a quasi-judicial rezoning decision based on criteria set forth in a zoning ordinance, "the adopted findings must be specific and the conclusions clearly articulated." *Colao v. County Council of Prince George's County*, 109 Md. App. at 453 (citing *Rodriguez v. Prince George's County*, 79 Md. App. 537, 551 (1989)). It is not the court's role "to search the record" considered by the agency "in an effort to construct a possible rationale that might support" the decision. *People's Counsel for Baltimore County v. Beachwood I Ltd. P'ship*, 107 Md. App. at 663. This specificity requirement exists to ensure meaningful judicial review of the agency's findings and to ensure that citizens and parties are apprised of the facts relied on by the agency. *Colao v. County Council of Prince George's County*, 109 Md. App. at 453-54. "[S]o important are well-reasoned and articulated administrative findings that a reviewing court may not uphold an agency's decision without them." *Id.* at 454 (citing *Mortimer v. Howard Research & Dev. Corp.*, 83 Md. App. 432, 441 (1990)).

In this appeal, Werrlein seeks reversal of the circuit court's judgment, which vacated the District Council's decision and remanded the matter to the District Council for an evidentiary hearing. Werrlein asks this Court to reinstate the decision establishing maximum densities of 6.7 dwelling units per net acre for one-family detached residences and 12.3 dwelling units per net acre for townhouses. Werrlein's appellate brief presents the following questions:

1. Whether the Council's Final Decision approving maximum densities not exceeding 6.7 dwelling units per net acre for single-family detached homes and 12.3 dwelling units per net acre for townhouses was supported by substantial evidence?

2. Whether the Council was required to hold a hearing and receive new evidence in order to determine maximum density per net acreage?

The Wolf parties contend that the judgment should be affirmed. The Wolf parties argue that the circuit court correctly determined that the District Council erred by refusing to hold an evidentiary hearing (or even an adversary public hearing) and that the decision was unsupported by substantial evidence.

Although the District Council was a party to the judicial review action, the District Council elected not to file an appellate brief.

To address the issues raised in this appeal, we will begin by addressing a fundamental disagreement about the nature of the decision at issue in the remand proceedings. In the earlier decision dated June 10, 2019, the District Council approved the following zoning changes: (1) it reclassified the lower parcel to the R-55 zone; (2) it added townhouses to the list of allowed uses for the property; and (3) it established new maximum densities of "6.7 dwelling units per acre" for one-family detached residences and "9 dwelling units per acre" for townhouses. In *City of Hyattsville v. Prince George's County Council*, 254 Md. App. 1 (2022), this Court upheld the first two changes but overturned the third. This Court upheld the decision to the extent that it rezoned the lower parcel and added townhouses as an allowed use. *Id.* at 10. This Court directed a remand to the District Council for the purpose of "reconsider[ing] its decision regarding the density of development permitted on the property." *Id.*

In reaching that conclusion, this Court held that the District Council "erred to the extent that it approved a density in terms of 'dwelling units per acre' rather than 'net acre,' as required by the zoning ordinance." *City of Hyattsville v. Prince George's County Council*, 254 Md. App. at 67. This Court explained: "This error may be significant for a property on which the number of net acres may be substantially less than the total acreage of the property." *Id.* This Court concluded that the District Council's decision "must be reversed to the extent that it modified the density regulations on the subject property[.]" *Id*. at 69.[8] This Court instructed: "On remand, the District Council must establish densities for one-family detached residences and for townhouses, expressed as a number of dwelling units per net acre of net lot or tract area." *Id.*

Many arguments made by Werrlein in the present appeal rely on incorrect characterizations of the prior appellate opinion. In its brief, Werrlein claims: "In *City of Hyattsville*, this Court . . . affirmed the Council's . . . decision to . . . modify the density regulations for the lower parcel." Werrlein asserts that the purpose of the remand was "to resolve a narrow, technical issue"—namely, that the "original order omitted the word 'net' from 'net acreage.'" According to Werrlein, this Court directed a remand "for the limited purpose of expressing density limits per net acre, rather than per acre[.]" Based on the premise that the District Council needed to "simply clarify" its prior density decision, Werrlein concludes that the District Council had no need to hold any

[8] In general, "[a] reversal is defined as 'the annulling or setting aside'" of a decision by a reviewing court. *Carpenter Realty Corp. v. Imbesi*, 369 Md. 549, 562 (2002) (quoting *Litman v. Massachusetts Mut. Life Ins. Co.*, 825 F.2d 1506, 1514 n.11 (11th Cir. 1987)).

evidentiary hearing, or even a public hearing at which interested parties could participate.

Werrlein's characterizations of the *City of Hyattsville* opinion are untenable. This Court did not *affirm* the modification of density regulations; the opinion stated that the decision "must be reversed" to the extent that it modified density regulations. *City of Hyattsville v. Prince George's County Council*, 254 Md. App. at 69. This Court did not characterize the error as *technical*; the opinion emphasized that the error appeared to be "significant" because the gross acreage of the property appeared to be much less than the net acreage. *Id.* at 67. This Court did not direct the District Council to *clarify* its modification of density regulations; the opinion directed the District Council to "reconsider" that aspect of its decision. *Id.* at 10. This Court did not instruct the District Council merely to *express* its decision differently; the opinion directed the District Council to "establish densities" for the property, which needed to be "expressed" in terms of dwelling units per net acre of net lot or tract area. *Id.* at 69.

Werrlein is correct in observing that the *City of Hyattsville* opinion "did not order the District Council to hold a public hearing or to accept new evidence" on remand. The briefing in the prior appeal did not disclose the parties' positions on whether, in the event of a partial reversal, another hearing was necessary or requested. The opinion left it to the District Council to decide in the first instance, after considering the positions of the parties, the proper manner in which to proceed. At least two possible options were available: (1) the District Council might have reconsidered its density determination based on the existing record and nothing else; or (2) the District Council might have supplemented the record with additional evidence and arguments.

After the remand, the District Council set the matter for consideration at a public meeting but specified that it would not entertain oral argument. The Wolf parties and the City of Hyattsville sent written objections, asserting their right to be heard by the District Council before it made its new decision. As the Wolf parties observe, the District Council "did not permit [them] to testify or their counsel to speak at the meeting," nor did it permit them to "present any information or evidence." The District Council did not mention the written objections during any of the meetings at which it reconsidered the issue of maximum density. By proceeding in this manner, the District Council denied the Wolf parties an opportunity to be heard even on the limited issue of whether the remand procedure chosen by the District Council was proper.[9]

Even if it might have been proper for the District Council to reconsider its decision based on the pre-existing record, the District Council did not limit itself to the pre-existing record. Instead, at the first meeting on July 12, 2022, the District Council invited new comments from the Planning Department. Although the District Council described these comments as a "[s]taff orientation[,]" the Planning Department representatives proceeded to introduce new substantive information.

The first speaker, Mr. Warner, announced that the Planning Department recommended new maximum densities of 6.7 dwelling units per net acre for one-family

[9] It appears that, to the extent that the District Council may have considered the written objections, the District Council summarily rejected them. When the District Council forwarded the record to the circuit court in the judicial review action, the District Council omitted the letters submitted by the Wolf parties and the City of Hyattsville. Those letters became part of the record only because the circuit court granted the Wolf parties' motion to correct or supplement the record.

detached residences and 12.3 dwelling units per net acre for townhouses. With respect to townhouses, Mr. Warner stated that "the Planning Department evaluated the density that the Council approved, which was 9 dwelling units per acre, and determined that the approximate density of 9 dwelling units per acre or gross acre would be 12.3 dwelling units per net acre[.]" Mr. Warner also opined that the development of 41 townhouses on the lower parcel "w[ould] be permissible" under the new densities recommended by the Planning Department. Mr. Warner did not specify when the Planning Department "evaluated" the net lot area of the property, nor did he explain how the Planning Department "determined" that 9.0 dwelling units per gross acre was equal to 12.3 dwelling units per net acre.

Immediately after Mr. Warner's comments, Ms. Kosack told the District Council that "the previously-approved density of 9 dwelling units per acre would equate to a density of 12.30 dwelling units per net acre[.]" Ms. Kosack added: "To determine that acreage, you must subtract the floodplain on the property, which is why the density number is larger when expressing it in this way." Ms. Kosack further stated: "[I]n accounting for the floodplain on the property, the density for the townhouses, as expressed as dwelling units per net acre of net lot or tract area, would be 12.30."

After the Planning Department announced its new recommendations, People's Zoning Counsel asserted that those recommendations should be stricken from the record. Although one Council member agreed that the comments were improper, no one moved to strike those comments.

Without additional discussion, the District Council set the matter for consideration

at a future meeting. When the District Council revisited the matter on September 19, 2022, the District Council directed its staff to prepare an order approving the same densities recommended by the Planning Department: 6.7 dwelling units per net acre for one-family detached residences and 12.3 dwelling units per net acre for townhouses. The District Council proceeded to adopt that proposed order on October 17, 2022.

In this appeal, no party argues that the District Council struck the Planning Department's recommendations from the record or declined to consider those recommendations.[10] The most reasonable conclusion to draw from this record is that the District Council considered the post-remand recommendations by the Planning Department. The District Council evidently credited the assertions that "9 dwelling units per acre would equate to a density of 12.30 dwelling units per net acre[.]" Aside from the comments from the Planning Department, the transcripts suggest no other reason to select 12.3 dwelling units per net acre as the maximum density for townhouses.

At the hearing in the ensuing judicial review action, counsel for the District Council echoed the recommendations from the Planning Department, by asserting that nine dwelling units per gross acre "translates to" 12.3 dwelling units per net acre. This assertion confirms that the District Council most likely relied on the evaluation made by the Planning Department as the basis for the decision.

There are several problems with the District Council's evident reliance on the post-remand recommendations made by the Planning Department. If the record was

[10] Werrlein's appellate brief includes quotations of the comments from Mr. Warner and Ms. Kosack.

"already complete" in 2019, as Werrlein asserts, then the new comments could not properly be considered part of the administrative record. By definition, therefore, the comments would not qualify as "substantial evidence in the record as a whole to support the agency's findings and conclusions[.]" *County Council of Prince George's County v. Zimmer Dev. Co.*, 444 Md. at 573 (citation and quotation marks omitted).

On the other hand, if those comments are part of the record, then the District Council must have reopened the record. At the same time, the District Council denied other parties the opportunity to challenge the Planning Department's recommendation or to make a different recommendation. This one-sided process would fail to satisfy the minimum requirements for any fair public hearing. *See County Council of Prince George's County v. Robin Dale Land LLC*, 491 Md. at 159 (recognizing that, a public hearing "contemplates more than mere *attendance* by the public; it connotes a meeting which the public has the right to attend *and* the right to be *heard*") (emphasis in original) (citation and quotation marks omitted).

Where the zoning ordinance permits the Planning Board's staff to make certain recommendations about requested zoning changes under PGCC § 27-548.26(b), the ordinance includes safeguards to ensure that the public has adequate notice of the recommendations in advance of any public hearing. PGCC § 27-548.26(b)(2) requires an applicant to describe any requested changes to development standards and to provide a statement of justification. PGCC § 27-548.26(b)(3) requires the technical staff to issue a report on the application. The report must be published online at least two weeks before the Planning Board holds a public hearing. PGCC § 27-125.05(a). The ordinance does

not authorize the Planning Department or any other government agency to introduce new recommendations to the District Council long after the conclusion of the public hearings.

Yet even if it might have been proper for the District Council to consider the post-remand recommendations, another problem exists. As the Wolf parties observe: "The problem with Mr. Warner's and Ms. Kosack's explanations . . . is that they do not elucidate *how* 9 dwelling units per acre equates or translates to 12.3 dwelling units per net acre." (Emphasis in original.) Under the zoning ordinance, net lot area means the total lot area, excluding public ways and land within the 100-year floodplain. PGCC § 27-107.01(a)(161). Thus, there is no direct relationship between a ratio of maximum dwelling units per gross acre and a ratio of maximum dwelling units per net acre. Net lot area depends on facts unique to each lot: the gross area, the area covered by public ways, and the area within the 100-year floodplain. Without additional facts, any assertion that 9.0 dwelling units per gross acre somehow "equate[s] to" or "translates to" 12.3 dwelling units per net acre is baseless. A reasoning mind could not accept that conclusion any more than it could conclude that two plus two equals five.

As we understand the comments, the Planning Department representatives were not asserting that 9.0 dwelling units per gross acre is somehow equivalent to 12.3 dwelling units per net acre for *every* property. Mr. Warner admitted that the Planning Department attempted to make its recommendation "consistent" with the number of dwelling units from prior approval decisions. Mr. Warner also stated that 41 townhouses on the lower parcel "w[ould] be permissible" under the new densities recommended by the Planning Department. Attempting to clarify, Mr. Kosack emphasized that the

Planning Department "account[ed] for the floodplain on the property" when it calculated the "new number" or 12.3 dwelling units per net acre. As the circuit court phrased it, the apparent intention was to "allow the developer to fit the same number of houses on [a] smaller amount of land."

Based on the comments from Mr. Warner and Ms. Kosack, one can conclude that the Planning Department started with the premise that Werrlein proposed to develop 41 townhouses on a parcel with 4.66 gross acres. Next, the Planning Department made some finding or estimate of the area of land lying within the 100-year floodplain (and perhaps also accounted for area covered by public ways). The Planning Department then used its finding or estimate to calculate the net lot area of the parcel. Finally, the Planning Department divided the number of proposed dwelling units by the calculated net lot area to produce a new recommendation. To produce the recommendation of 12.3 dwelling units per net acre, the Planning Department must have estimated the total floodplain area (and perhaps also the area covered by public ways) to be approximately 1.33 acres and calculated the net lot area to be approximately 3.33 net acres.

In the judicial review action, neither the District Council nor Werrlein identified evidence in the record to support a finding of the net lot area of the lower parcel. Although all parties recognized that some portion must be excluded from the net lot area, the record lacked evidence of the actual area of the land lying within the 100-year floodplain or covered by public ways. Nothing indicates that Werrlein's applications included information about the net lot area. To the contrary, the staff report from 2018 stated that Werrlein was "proposing" a density of "nine dwelling units per gross acre" for

townhouses. Whenever the technical staff reports, Planning Board decisions, and the District Council decisions from 2018 and 2019 mentioned the acreage of the property, those documents uniformly referred to estimates of gross acreage rather than net acreage. By all indications, the Planning Department's post-remand recommendation was based on something other than the administrative record at the time of the 2019 decision.

In this appeal, Werrlein suggests that it was impossible to do what the Planning Department purported to do—to evaluate the net lot area of the lower parcel—using the information in the record. Werrlein emphasizes that the applications for zoning changes here included a conceptual site plan, rather than a detailed site plan.[11] According to Werrlein, "[a]t the time that a [conceptual site plan] is reviewed, the actual net acreage of a property is often not even known[,]" and "the extent of the floodplain and the extent of the alleys, streets, and other public ways are also often not known." Werrlein asserts: "It is not until the [detailed site plan] stage that an applicant is required to show the exact delineation of the 100-year floodplain and the exact size of buildings, structures, and sidewalks." These assertions, if correct, confirm that the Planning Department's determination of the net lot area was not based on the record existing at the time of the 2019 decision.

[11] PGCC § 27-548.26(b)(2)(C) provides that, when a property owner requests zoning changes to property in the Development District Overlay zone, the application must include either a detailed site plan or a conceptual site plan. "Even though a conceptual site plan (or detailed site plan) is required as part of the application, the District Council's decision to approve the application is, in substance, a decision to approve a zoning map amendment." *City of Hyattsville v. Prince George's County Council*, 254 Md. App. at 39.

In its reply brief, Werrlein refers to materials outside the administrative record as potential support for an estimate of the net lot area. Werrlein askes this Court to take judicial notice that, after the District Council made its second density decision in October 2022, Werrlein submitted a detailed site plan application for the lower parcel. Werrlein states that its application used a "proposed floodplain acreage" of 1.29 acres for the lower parcel, which was contingent on a floodplain waiver from the County's Department of Permitting, Inspections, and Enforcement. Werrlein asserts that "[w]hen 1.29 is subtracted from the gross acreage of the lower parcel (4.66 acres)," the result is "3.37 net acres." Werrlein asserts that, if the "proposed 41 dwelling units were divided by 3.37 net acres," the result would be an actual density of "12.17 dwelling units per net acre[,]" which is "similar to the maximum density of 12.3 dwelling units per net acre[.]"[12]

Even if a court takes judicial notice of Werrlein's detailed site plan application, the assertions in that application do not qualify as substantial evidence to support the District Council's decision. On judicial review, the court "in its review of the evidence is bound by the record made before" the agency and cannot consider additional evidence that might "enhance or diminish the evidence" considered by the agency. *Aspen Hill Venture v. Montgomery County Council*, 265 Md. 303, 316-17 (1972). An application first submitted to the Planning Board in October 2022 self-evidently is not part of the record before the District Council at the time of the first density decision in May 2019. That application was not even part of the record at the time of the second density decision,

[12] Werrlein's calculations appear to assume that no other land on the lower parcel is covered by public ways.

which preceded the application by two weeks. Moreover, Werrlein alone was the source of this proposed floodplain calculation; it was never disclosed to adversaries or subject to challenge at any time before the District Council made its density decisions. As Werrlein admits, the District Council later *rejected* this proposed floodplain calculation, finding that it relied on an invalid floodplain waiver and that the resulting density calculation was incorrect. In short, Werrlein's unilateral assertions about the net lot area, submitted after the District Council's density decision (and later rejected), do not qualify as substantial evidence that might justify that decision.

Werrlein devotes much of its appellate briefs to an argument that the District Council was not required to determine the net lot area of the property when establishing a maximum density for townhouses. As Werrlein observes, the District Council here was deciding what maximum density should be permitted for townhouses on the property, not deciding whether the development proposal actually complied with that maximum density. According to Werrlein, the question of whether its development proposal complied with the maximum density regulations would be decided at subsequent stages of the land-use approval process. Werrlein concludes that the District Council did not need to make any factual findings about the *actual* net lot area of the property when deciding what the *permissible* maximum density for townhouses on the property.

The distinction identified by Werrlein is an important one. The District Council's decision here required a normative choice about the maximum densities that should be permitted on the property. The guiding principle for that choice is that the District Council "may modify density regulations only to meet the goals of the Development

District and the purposes of the D-D-O zone." PGCC § 27-548.23(b). In addition, before it may employ Development District Standards to modify density regulations, the District Council must "find that the amended standards will benefit the proposed development, will further the purposes of the applicable Development District, and will not substantially impair implementation of any applicable Master Plan or Sector Plan." PGCC § 27-458.26(b)(1)(B)(ii). When establishing a new density under these provisions, the District Council's core focus should be on the purposes and goals of the Development District. The District Council should not focus, as it apparently did here, on whether the new density regulation will accommodate a developer's request to construct a specific number of dwelling units on the property.

Werrlein's argument misapprehends the true defect in the District Council's decision. The defect was not that some external authority (such as the zoning ordinance or the *City of Hyattsville* opinion) required the District Council to make a finding of the net lot area of a property before it could establish a maximum density. The defect here was that the District Council itself used a rationale that relied on a finding or estimate of the net lot area. The District Council selected the maximum density of 12.3 dwelling units per net acre based on the Planning Department's recommendation of 12.3 dwelling units per net acre, which was based on an undisclosed finding or estimate of the net lot area of the lower parcel. To the extent that the decision relied on a finding or estimate of the net lot area, that finding or estimate needed to be based on evidence in the record. It was not.

Attempting to defend the District Council's decision, Werrlein largely ignores the

implications of the comments made by the Planning Department during the remand proceedings. Werrlein suggests a different possible rationale for approving the same recommended densities. Werrlein focuses on excerpts from the written decision, which the District Council eventually adopted after directing its staff to draft an order establishing the maximum density of 12.3 dwelling units per net acre for townhouses. According to Werrlein, the written decision shows that the District Council made its decision by "examin[ing] maximum densities for surrounding properties and analogous residential zones[.]"

In support of that assertion, Werrlein cites a section that mentions densities for surrounding properties. That section states that adjoining properties on one side of the property have "multifamily apartment buildings, with an approximate density of 30 dwelling units per [net] acre," with an approved "maximum of 48 dwelling units per [net] acre." (Alteration in original.) It also states that the adjoining properties on another side of the property have one-family detached residences "with a density of approximately 3.6 to 7.9 dwelling units per [net] acre[.]" (Alteration in original.)

Werrlein also cites a later section, which mentions the maximum densities for one-family attached residences and townhouses in various other residential zones in the County. That section states:

> In the R-20 zone, the maximum density for one-family detached dwellings is 6.7 dwelling units per net acre, but the maximum density for townhouses is 16.33 dwelling units per net acre. PGCC § 27-442(h). In the R-T, R-30, R-30C, R-18, and R-18C zones, the maximum density for one-family detached dwellings is 6.7 dwelling units per net acre, but the maximum density for townhouses is 6.0 dwelling units per net acre (or 8.0 dwelling units per net acre for certain townhouses approved before November 1,

> 1996). Id. In the R-T zone, the maximum density in the "Townhouse, Transit Village" category is 12.0 dwelling units per net acre. PGCC § 27-442(h); *City of Hyattsville*, 254 Md. App. at 66, n.24[.][13]

Based on these excerpts, Werrlein theorizes that the District Council "compared the maximum densities in other, analogous residential zones and found there to be a density range for townhouses between 6.0 and 16.33 townhouses per net acre." Under Werrlein's theory, these "compar[isons]" to "analogous" residential zones support the decision to establish a new maximum density of 12.3 dwelling units per net acre for townhouses.

Despite Werrlein's assertion, the written decision does not state or imply that the District Council made any "compar[isons]" to what it considered to be "analogous" residential zones. The decision mentions certain facts about other densities, but it does not articulate how those facts might tend to support the District Council's conclusions. Even if some comparison was intended, the decision does not specify *which* residential zones served as the point of comparison. In all but one of the residential zones mentioned, the maximum density for townhouses is less than 12.3 dwelling units per net acre. One zone has a maximum density of 12.0 dwelling units per net acre, but only for the "Townhouse, Transit Village" sub-category, not for other types of townhouses. In

[13] The language of this quoted paragraph is reproduced from a footnote in the *City of Hyattsville* opinion. The purpose of that footnote was to identify authority for the following proposition: "For some residential zones, the maximum density for one-family attached dwellings differs from the maximum density for townhouses." *City of Hyattsville v. Prince George's County Council*, 24 Md. App. at 66. That proposition, in turn, refuted the Wolf parties' argument that the maximum density of 6.7 dwelling units per net acre for one-family attached residences should be the maximum density for *all* types of residences in the R-55 zone. *Id.* (citing PGCC § 27-442(h)).

most of the zones mentioned, the maximum density for townhouses is *significantly* less than 12.3 dwelling units per acre: 6.0 dwelling units per net acre (or 8.0 dwelling units per net acre for certain older units). To the extent that these excerpts might be construed as an analysis to support approving a density of 12.3 dwelling units per net acre for townhouses, this purported analysis lacks the level of specificity required for a court to uphold it. *See Colao v. County Council of Prince George's County*, 109 Md. App. at 460; *People's Counsel for Baltimore County v. Beachwood I Ltd. P'ship*, 107 Md. App. at 663.

We conclude that the District Council's decision to establish a maximum density of 12.3 dwelling units per net acre for townhouses was not supported by substantial evidence in the record. The apparent basis for the decision was something that was not properly part of the administrative record: the Planning Department's new recommendation to establish a maximum density of 12.3 dwelling units per net acre for townhouses. That recommendation relied on an undisclosed (and consequently unchallenged) evaluation of the net lot area of the lower parcel. The circuit court was correct when it reversed the decision on the ground that it was "unsupported by competent, material, and substantial evidence in view of the entire record as submitted[.]" LAND USE § 22-407(e)(v).

In reversing the District Council's decision, the circuit court also determined that the District Council erred by failing to hold an evidentiary hearing. The court ordered the District Council to hold an evidentiary hearing on the issue of maximum density. On appeal, Werrlein maintains that the District Council was not required to hold an

evidentiary hearing during the remand proceedings.

As an initial matter, Werrlein argues that the Wolf parties "did not argue before the circuit court that an evidentiary hearing should be held by the Council and so this argument is not preserved." Werrlein's argument is mistaken.

In the memorandum in support of the petition for judicial review, the Wolf parties' central argument was that the District Council erred by refusing to hold a public hearing and to allow them to participate and to introduce information. The Wolf parties argued that "the District Council should have remanded the case to the Planning Board for an evidentiary hearing, [and] then should have conducted an appellate or evidentiary hearing on the Planning Board's recommendation[.]" They wrote: "The Council, as well as the Planning Board, should have conducted a hearing on the issues remanded by [the appellate court]." Their contention that *both* the Planning Board and the District Council needed to conduct public hearings fairly encompasses an argument that the District Council needed to conduct a public hearing.

In any event, even if the Wolf parties had never made that argument, the issue of whether the District Council needed to hold an evidentiary hearing would still be properly before this Court. Generally, an issue is properly presented for appellate review if "it plainly appears by the record to have been raised in *or decided by* the trial court[.]" Md. Rule 8-131(a) (emphasis added). Because the circuit court here "'squarely considered and plainly decided'" that the District Council needed to hold an evidentiary hearing, that issue is properly presented for appellate review. *See Green v. Green*, 188 Md. App. 661, 675 (2009) (citing *In re Levon A.*, 124 Md. App. 103, 125 (1998)) (further

quotation marks omitted).

In arguing that no evidentiary hearing was required, Werrlein cites PGCC § 27-141, a provision that concerns general zoning procedures. That provision states: "The final decision in any zoning case shall be based only on the evidence in the record, and shall be supported by specific written findings of basic facts and conclusions." PGCC § 27-141. Werrlein notes that this section does not mention hearings. Based on that observation, Werrlein argues: "There is nothing in the law that states that the Council is to hold public evidentiary hearings when resolving matters on remand based on an already full record."

Werrlein's analysis of the ordinance is misguided. PGCC § 27-141 expresses a rule of general applicability for zoning cases in Prince George's County. That provision does not purport to govern the hearing requirements (or lack of hearing requirements) for particular types of zoning decisions. Those hearing requirements are set forth elsewhere in the ordinance.

As the Wolf parties explain in their brief, the zoning ordinance provides for two public hearings when a property owner applies for zoning changes in the Development District Overlay zone. Generally, review of the application follows the general site plan review procedures, expect as modified by PGCC § 27-548.26(b)(3). That provision states that, after the technical staff reviews the application and submits a report, "the Planning Board shall hold a public hearing and submit a recommendation to the District

Council." *Id.*[14] When the District Council reviews the Planning Board's decision on a request to amend Development District Standards, "[t]he District Council shall schedule a public hearing on the appeal or review." PGCC § 27-280(c). These provisions establish the applicable hearing requirements for Werrlein's request for zoning changes under PGCC § 27-548.26(b).

The zoning ordinance does not specify whether a public hearing is required under the circumstances of this case, in which reviewing courts reversed part of the District Council's decision and remanded the matter for partial reconsideration. Absent an express provision governing this scenario, the need for public hearing depends on the circumstances of the remand and the purposes served by the hearing requirement. A hearing might not be required if the existing record is already complete, if no party offers any additional information, and if the District Council receives no new information. For example, the District Council might not have required a hearing to correct a mere drafting error from an earlier decision, such as the District Council's apparent error in approving a density for one-family detached residences of "6.7 dwelling units per acre," for townhouses.

On the other hand, if the District Council seeks and receives any material information on remand, as it did here, then the District Council must ensure that all parties have an opportunity to be heard and to introduce any contrary information.

[14] Under the general site plan review procedures, the Planning Board may consider a site plan "only . . . at a regularly scheduled meeting after a duly advertised public hearing." PGCC §§ 27-276(a)(4), 27-285(a)(4).

Otherwise, the purpose of the hearing requirement would be defeated. *See County Council of Prince George's County v. Robin Dale Land LLC*, 491 Md. at 159 (explaining that, "'a statutory right to a public hearing on a zoning map amendment application'" entails "'a right to a fair hearing in all respects, including the privilege of introducing evidence and the duty of deciding in accordance with the evidence'") (quoting *Montgomery County v. Woodward & Lothrop, Inc.*, 280 Md. 686, 710 (1977)).

Werrlein contends that, under the circumstances of this case, any hearing requirement was satisfied during the earlier proceedings before the Planning Board and the District Council in 2018 and 2019. Werrlein asserts that the District Council "already conducted hearings on all issues . . ., including density," before the 2019 rezoning decision. Werrlein argues that the Wolf parties "already had the opportunity to voice any opposition to [the] application, including opposition related to density, at that time."

Werrlein's argument reflects an incomplete assessment of the facts. During the remand proceedings, the District Council effectively reopened the hearing record by accepting a new recommendation from the Planning Department. The District Council denied the Wolf parties any opportunity to challenge the new recommendation or the evaluation on which it was based. The District Council proceeded to use the new recommendation as the primary basis for its decision. Although the Wolf parties may have had some earlier opportunities to be heard on "density" generally, they lacked any opportunity to contest the information on which the District Council made its final decision. The process that the District Council used here did not substantially comply with the hearing requirement set forth in the zoning ordinance. *See County Council of*

Prince George's County v. Robin Dale Land LLC, 491 Md. at 159.[15]

Werrlein has failed to demonstrate any error in the conclusion that the District Council needed to hold an evidentiary hearing when it made its new density decision on remand. The District Council accepted new information as the basis for its decision without subjecting that information to a proper hearing. Accordingly, there is no basis to disturb the order requiring the District Council to conduct an evidentiary hearing on the issue of maximum density.

In their brief, the Wolf parties argue that the circuit court did not go quite far enough. Under their interpretation of the zoning ordinance, the more appropriate forum for an evidentiary hearing is the Planning Board, not the District Council. The Wolf parties maintain that "the District Council should have remanded the case to the Planning Board for an evidentiary hearing, [and] then should have conducted an appellate or evidentiary hearing on the Planning Board's recommendation[.]"

Even if there is merit to an argument that the Planning Board was the more appropriate forum for an evidentiary hearing, the circuit court's judgment here ordered

[15] The record fails to show that parties to the proceedings in 2018 and 2019 had actual notice that anyone was requesting or recommending a density of 12.3 dwelling units per net acre for townhouses. The record shows that Werrlein's application included information about gross area of the lower parcel and the number of proposed townhouse units. The record does not show that Werrlein disclosed information about net lot area or that Werrlein requested any specific density as a maximum number of dwelling units per net acre. The staff reports and Planning Board decisions did not address net lot area or recommend any specific maximum dwelling units per net acre. Until the Planning Department made its post-remand recommendation, all parties lacked notice that any person or agency was requesting or recommending a density of 12.3 dwelling units per net acre for townhouses.

"the District Council to conduct an evidentiary hearing[.]" The Wolf parties did not file any notice of appeal or notice of cross-appeal. Consequently, although the Wolf parties are free to advance any potential grounds for affirming the circuit court's judgment, the Wolf parties are precluded from arguing that this Court should reverse or modify that judgment. *See Selective Way Ins. Co. v. Fireman's Fund Ins. Co.*, 257 Md. App. 1, 59-60 (2023) (explaining that "'one who seeks to attack, modify, reverse, or amend a judgment (as opposed to seeking to affirm it on a ground different from that relied on by the trial court) is required to appeal or cross appeal from that judgment'") (quoting *Paolino v. McCormick & Co.*, 314 Md. 575, 579 (1989)).

Under the circumstances, therefore, there is no basis to modify the circuit court's judgment to the extent that it ordered an evidentiary hearing in the District Council rather than the Planning Board. The judgment must be affirmed in that respect.[16]

CONCLUSION

For the reasons explained above, we affirm the judgment vacating the decision on the issue of maximum density and remanding the matter to the District Council for an evidentiary hearing. The hearing must be a public hearing at which interested parties have the opportunity to introduce evidence and make arguments. *See County Council of Prince George's County v. Robin Dale Land LLC*, 491 Md. 105, 159 (2025).

After an evidentiary hearing, the District Council must reevaluate its decision to

[16] Even though the order requiring the District Council to hold an evidentiary hearing is affirmed, the District Council retains authority under the zoning ordinance to "remand the application to the Planning Board for review of specific issues" under PGCC § 27-548.26(b)(3) in its discretion.

establish a maximum density for townhouses on the property. The District Council "may modify density regulations only to meet the goals of the Development District and the purposes of the D-D-O Zone." PGCC § 27-548.23(b). To approve amended standards, the District Council must "find that the amended standards will benefit the proposed development, will further the purposes of the applicable Development District, and will not substantially impair implementation of any applicable Master Plan or Sector Plan." PGCC § 27-458.26(b)(1)(B)(ii). The final decision "shall be based only on the evidence in the record, and shall be supported by specific written findings of basic facts and conclusions." PGCC § 27-141. Findings made by the District Council "must be specific and the conclusions clearly articulated." *Colao v. County Council of Prince George's County*, 109 Md. App. 431, 453 (1996) (citation and quotation marks omitted).

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY APPELLANT.