

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A proposed land use that requires a conditional land use permit must be processed under quasi-judicial, rather than legislative, procedures where the applicable county code provision specifies that conditional uses in the exclusive farm use zone are subject to conditional use criteria and “shall be reviewed” according to the county’s quasi-judicial review procedures. Further, according to *Strawberry Hill 4 Wheelers v. Board of Comm.*, 287 Or 591, 602-03, 601 P2d 769 (1979), the Oregon Supreme Court established a three-factor test to determine whether a land use matter is quasi-judicial or legislative, and where all three factors indicate that the county’s action is quasi-judicial in nature, the county also erred in processing the application under its legislative rather than its quasi-judicial procedures. *VanDyke v. Yamhill County*, 78 Or LUBA 530 (2018).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Where a county code provision governing the conduct of proceedings on remand is not limited by text or context to remands of quasi-judicial decisions, a county does not err in applying those provisions to govern the conduct of proceedings on remand of a legislative decision. *Setniker v. Polk County*, 75 Or LUBA 1 (2017).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** An ordinance that amends the width and features of a buffer area between urban and rural lands is properly viewed as a legislative rather than quasi-judicial decision, where the ordinance was adopted as part of a legislative process that was not bound to result in a decision, the modified buffer affects over 135 acres of land that stretch over one mile in length, and the amendments potentially affect hundreds of property owners. *Forest Park Neighborhood Assoc. v. Washington County*, 73 Or LUBA 193 (2016).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** That a comprehensive plan map amendment may be quasi-judicial, and therefore potentially approvable by a planning commission, does not mean relevant statutes may not require that action be taken by the governing body before the map amendment can become final and effective. *Housing Land Advocates v. City of Happy Valley*, 73 Or LUBA 405 (2016).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A hearings officer’s decision on a property owner’s request for an interpretation as to whether approving a floating home development in a zone that allows such development requires an exception to Goal 14 is a quasi-judicial decision rather than a legislative decision. Consequently, the “raise it or waive it” provisions of ORS 197.763(1) apply. *Squier v. Multnomah County*, 71 Or LUBA 98 (2015).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** The fact that some changes to uses allowed in a zoning district that are adopted by a legislative land use regulation amendment could also have been accomplished through a quasi-judicial rezoning decision does not provide a basis for recharacterizing a legislative land use decision as a quasi-judicial land use decision. *Stevens v. Clackamas County*, 68 Or LUBA 490 (2013).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A notice of decision’s characterization of a decision as legislative when it is actually a quasi-judicial decision does not, in itself, warrant remand so long as the relevant criteria were applied and there were no

procedural errors that prejudiced petitioner's substantial rights. *Warren v. Josephine County*, 67 Or LUBA 74 (2013).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Where a right-of-way vacation process was initiated by a city council and could be abandoned at any time after initiation, the first *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979), factor, which is whether the process is bound to result in a decision, suggests the decision is legislative rather than quasi-judicial. *Heitsch v. City of Salem*, 65 Or LUBA 187 (2012).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Where a right-of-way vacation decision was bound to “apply preexisting criteria to concrete facts,” the second *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979), factor suggests the decision is quasi-judicial rather than legislative. *Heitsch v. City of Salem*, 65 Or LUBA 187 (2012).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** The third *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979), factor is whether the action is directed at a closely circumscribed factual situation or a relatively small number of persons. Where a decision vacates a vacant alley right-of-way over a small, 673-square-foot area with a handful of adjoining property owners, the third *Strawberry Hill 4 Wheelers* factor suggests the decision is quasi-judicial rather than legislative. *Heitsch v. City of Salem*, 65 Or LUBA 187 (2012).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** The *Strawberry Hills 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 602-03, 601 P2d 769 (1979), factors for distinguishing between legislative and quasi-judicial decisions are difficult to apply to distinguish between legislative and quasi-judicial decisions in the land use context, since almost all land use decisions that are initiated by an application require that the decision making body reach a decision, and in almost all cases a land use decision maker is bound to apply some sort of “preexisting criteria to concrete facts.” That leaves the third inquiry, “closely circumscribed factual situation,” which the Court of Appeals has said is less important than the other inquiries. *Weber Coastal Bells v. Metro*, 64 Or LUBA 221 (2011).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Where the “preexisting criteria” that must be applied in approving a regional light rail facility are more in the nature of a delegation of authority to site the facility where the approving body prefers, the second of the *Strawberry Hills 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 602-03, 601 P2d 769 (1979), factors does not require that the decision be viewed as quasi-judicial. *Weber Coastal Bells v. Metro*, 64 Or LUBA 221 (2011).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** ORS 227.186(2), which requires that legislative acts be adopted by ordinance, does not apply retroactively to invalidate neighborhood boundaries that were established by resolution before ORS 227.186(2) took effect in 1998. *Home Builders Association v. City of Eugene*, 59 Or LUBA 116 (2009).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A quasi-judicial decision on an application for a property line adjustment is not transformed into a de facto legislative zoning code amendment simply because the property line adjustment is arguably inconsistent with an approval criterion. Such a decision is at most an erroneous quasi-judicial decision that may be subject to reversal or remand if timely appealed, but it does not abrogate or amend the zoning code. *Ebar v. Harney County*, 59 Or LUBA 201 (2009).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Where a petitioner alleges a county erred by adopting a land use decision as a legislative decision rather than a quasi-judicial decision, but petitioner identifies no error that resulted from adopting the decision as a legislative decision rather than a quasi-judicial decision, petitioner’s allegations provide no basis for reversal or remand. *Carver v. Deschutes County*, 58 Or LUBA 323 (2009).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A land use decision that amends comprehensive plan and zoning ordinance text to create a new plan map and zoning map district, without applying that new district to any property, is properly viewed as a legislative decision rather than a quasi-judicial decision. *Carver v. Deschutes County*, 58 Or LUBA 323 (2009).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Under *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 602-603, 601 P2d 769 (1979), three factors are considered to distinguish between quasi-judicial and legislative decisions. The “apply existing criteria to concrete facts” factor is less important than the other two, particularly where the decision adopts new land use laws and does not apply those new laws or existing land use laws to grant land use approval for a single property or a small number of properties. *Carver v. Deschutes County*, 58 Or LUBA 323 (2009).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** While respondents may supply argument and record citations in support of a local governments’ legislative decision to supplement any adopted findings, respondents cannot recharacterize or change a legislative decision’s stated decision-making rationale to be something that is at odds with the decision-making rationale that is expressed in the legislative decision itself. *Friends of French Prairie v. Marion County*, 58 Or LUBA 387 (2009).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A decision that adds an aggregate mining site to the county’s comprehensive plan inventory of significant mineral and aggregate resources and adopts background documents to the comprehensive plan, is a plan *text* amendment rather than a plan *map* amendment, and therefore under the county’s code the decision is subject to procedures and standards applicable to legislative plan amendments. *Rickreall Community Water Assoc. v. Polk County*, 53 Or LUBA 76 (2006).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A decision that amends the comprehensive plan and zoning maps for a 20-acre parcel in single ownership is properly viewed as a quasi-judicial decision under *Strawberry Hill 4 Wheelers*, and therefore the county erred in conducting the hearing and adopting the decision under legislative procedures,

which do not provide written notice to adjoining landowners. *Sullivan v. Polk County*, 49 Or LUBA 543 (2005).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Annexation of a portion of road with one owner, though not required to result in a decision, is quasi-judicial, and therefore must be supported by findings addressing applicable standards. *Patterson v. City of Independence*, 48 Or LUBA 155 (2004).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A city-initiated annexation involving an area of 310 acres consisting of 97 parcels that is neither bound to result in a decision, nor an action directed at a closely circumscribed factual situation or relatively small number of persons is a legislative rather than quasi-judicial decision under *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979). *Cutsforth v. City of Albany*, 48 Or LUBA 304 (2004).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A decision that repeals comprehensive plan text, adopts new plan text to allow for mixed-use development throughout the city, and applies newly adopted plan and zoning designations to a 275-acre property is a legislative “major plan change” rather than a quasi-judicial “minor plan change,” where the local code definition limits “minor plan changes” to plan map changes. *Citizens for Protection of Neighborhoods v. City of Salem*, 47 Or LUBA 111 (2004).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Where a decision includes discrete determinations that, viewed in isolation, would constitute quasi-judicial decisions, whether the decision is viewed as legislative or quasi-judicial depends on the character of the whole decision. The entire decision will either be legislative or quasi-judicial, not a hybrid of both. *NWDA v. City of Portland*, 47 Or LUBA 533 (2004).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Assuming, without deciding, that it is reversible error to combine a unitary legislative proceeding with a geographically and otherwise unrelated site-specific proposal, a city decision that applies a height bonus to a particular property that is within a 535-acre study area subject to a number of legislative plan and land use regulation amendments is not geographically or otherwise unrelated to the legislative proceeding. *NWDA v. City of Portland*, 47 Or LUBA 533 (2004).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A city’s decision to follow quasi-judicial procedures in adopting a decision concerning a two-mile long highway project affecting a large portion of the city does not convert a legislative decision into a quasi-judicial decision. A city need not require that parties in a legislative land use proceeding follow any particular order in presenting evidence. *Ramsey v. City of Philomath*, 46 Or LUBA 241 (2004).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Comprehensive plan and land use regulation amendments that affect two tax lots and 6.4 acres are correctly characterized as a “circumscribed factual situation” and “a relatively small number of persons” are affected, thus satisfying the third step of the three-step inquiry in *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 602-03, 601 P2d 769 (1979), for determining whether a

proceeding is quasi-judicial rather than legislative in nature. *Thomas v. City of Veneta*, 44 Or LUBA 5 (2003).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Where an ordinance amends a number of different sections of zoning ordinance text, the ordinance is a legislative land use decision. That one of those zoning ordinance amendments may be directed at a small number of persons does not make the ordinance a quasi-judicial/legislative hybrid and does not obligate the city that enacted the ordinance to follow the quasi-judicial land use decision making procedures at ORS 197.763. *OCAPA v. City of Mosier*, 44 Or LUBA 452 (2003).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A decision that annexes property into city limits using quasi-judicial land use processes set out in the local code for such annexation decisions is reviewable as a quasi-judicial land use decision. *West Side Rural F.P.D v. City of Hood River*, 43 Or LUBA 546 (2003).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** As used in OAR 661-010-0025(1)(b), the term “placed before” is a term of art and does not merely describe the act of setting documents in front of the decision maker. Legislative decision making often involves less precisely defined procedures for compiling an evidentiary record than quasi-judicial decision making. *Witham Parts and Equipment Co. v. ODOT*, 42 Or LUBA 589 (2002).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Given that ORS 197.299 requires Metro to review the supply of residential land within the Metro UGB at least every five years, Metro is not obligated to provide a quasi-judicial UGB amendment process, in addition to a legislative process, to ensure that the Metro UGB as a whole maintains an adequate supply of residential land. *Homebuilders Assoc. v. Metro*, 42 Or LUBA 176 (2002).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** The speculative possibility that a subregional housing shortage will arise in the interim between the five-year UGB reviews required by ORS 197.299, and that Metro will decline to initiate a legislative proceeding to address that interim shortage, is an insufficient basis to establish that a quasi-judicial UGB amendment process is essential to ensure continued compliance with Goals 10 and 14. *Homebuilders Assoc. v. Metro*, 42 Or LUBA 176 (2002).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Even assuming that the ORS 197.307(6) prohibition against procedures that “discourage needed housing through unreasonable cost or delay” applies to Metro, which does not process applications for development of needed housing, petitioner’s speculation that Metro will delay initiating a legislative UGB amendment for housing needs is insufficient to establish that Metro’s failure to also provide for a quasi-judicial UGB amendment process for housing need will result in “unreasonable delay.” *Homebuilders Assoc. v. Metro*, 42 Or LUBA 176 (2002).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** ORS 197.620(1), which states that a decision not to adopt a legislative amendment or new land use regulation is not appealable to LUBA, does not explicitly or implicitly limit a local government’s authority to define

what matters it will consider on a quasi-judicial or legislative basis. *Homebuilders Assoc. v. Metro*, 42 Or LUBA 176 (2002).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** The requirement imposed by *Fasano v. Washington Co. Comm.*, 264 Or 574, 507 P2d 23 (1973) for a fair and impartial tribunal does not apply to legislative land use proceedings. *Waibel v. Crook County*, 40 Or LUBA 67 (2001).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A county decision to amend a property description of a significant aggregate site in its comprehensive plan to mirror the property description contained in its mineral sites inventory, along with other, unrelated policy and housekeeping amendments, is a legislative, and not a quasi-judicial, decision. *DeBell v. Douglas County*, 39 Or LUBA 695 (2001).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** The Portland City Code does not require that the city adopt findings of fact to support its legislative decisions. Therefore, on appeal to LUBA, the city may rely upon citations to the comprehensive plan, code, the record and arguments in its brief to demonstrate that the legislative decision is consistent with applicable plan and code provisions. *Home Depot, Inc. v. City of Portland*, 37 Or LUBA 870 (2000).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** An annexation is a quasi-judicial decision if (1) the initiation of the annexation is bound to result in a decision; (2) the local government is bound to apply pre-existing criteria to concrete facts; and (3) the action is directed at a closely circumscribed factual situation or a relatively small number of persons. *Johnson v. City of La Grande*, 37 Or LUBA 380 (1999).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** An annexation decision is not a quasi-judicial decision when the initiation of the annexation does not require that the city complete the process, and where the annexation applies to 155 parcels owned by 127 different persons. *Johnson v. City of La Grande*, 37 Or LUBA 380 (1999).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A citywide zone change affecting only petitioners' proposed mobile home park is not directed at a closely circumscribed factual situation or a relatively small number of persons for purposes of the third factor described in *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979), where the decision does not address or hinge on details of petitioners' proposal, but rather on broader policies regarding regulation of mobile home parks. *Casey Jones Well Drilling, Inc. v. City of Lowell*, 34 Or LUBA 263 (1998).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Even if local policy allows a proposed amendment to be referred for further study and provides no express time requirement to make a final decision, the local decision maker is bound to reach a decision on a proposed plan amendment if a natural reading of local policy requires a final decision at some point in time. *Dean v. City of Oakland*, 33 Or LUBA 806 (1997).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Although evidence suggests that a local decision maker’s deliberation of a proposed plan amendment was bound to result in a final decision, this fact does not conclusively establish that the decision was quasi-judicial. *Dean v. City of Oakland*, 33 Or LUBA 806 (1997).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** When the specific facts of a proposal drive the evaluation, and the final decision applies preexisting criteria to concrete facts, the decision satisfies the second of the *Strawberry Hill 4 Wheelers* factors, even if the local decision maker considers policy arguments in the decision’s findings and conclusions. *Dean v. City of Oakland*, 33 Or LUBA 806 (1997).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A decision that affects an entire zone is more likely to be legislative. However, when the decision focuses primarily on specific provisions of a proposal and the characteristics of the land owned by the person making the proposal, the decision satisfies the third of the *Strawberry Hill 4 Wheelers* factors and may be quasi-judicial rather than legislative. *Dean v. City of Oakland*, 33 Or LUBA 806 (1997).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Where a local land use decision-making process is not bound to result in a decision and affects a large area with many owners, the resulting decision is a legislative decision. *Valerio v. Union County*, 33 Or LUBA 604 (1997).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** There is no legal requirement that decision makers disclose the substance of their site observations and provide an opportunity for rebuttal where the decision is legislative rather than quasi-judicial. *Valerio v. Union County*, 33 Or LUBA 604 (1997).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A city council may not convert an on-the-record quasi-judicial appeal of a planning commission decision into a *de novo* legislative hearing where the city code: (1) provides that legislative proceedings may only be commenced by the planning commission or city council, and the subject proceeding was initiated by an individual; (2) includes no provisions for converting a quasi-judicial appeal proceeding into a legislative proceeding; and (3) requires that appeals of planning commission quasi-judicial decisions be heard on the record. *Anderson v. City of Shady Cove*, 33 Or LUBA 173 (1997).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Even when an application involves a UGB amendment that would double the size of the city’s urbanizable land, where the amendment is prompted by one development proposal, the city and county decisions to approve are “directed at a closely circumscribed factual situation,” and under *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979), the decisions are therefore quasi-judicial. *Concerned Citizens v. Jackson County*, 33 Or LUBA 70 (1997).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** When a proposal to amend the city and county zoning ordinances is bound to apply preexisting criteria to concrete

facts, but is neither bound to result in a decision nor directed at a closely circumscribed factual situation or a relatively small number of persons, the decision to amend is a legislative land use decision. *Waite v. City of La Grande*, 31 Or LUBA 77 (1996).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A county decision concerning a 2,400-foot section of a minor arterial which will affect more than 40 properties, accommodate 18,000 trips per day and is shown on a regional transportation plan as an arterial of regional significance is not a decision involving “a closely circumscribed factual situation or a relatively small number of persons,” under *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979). *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Even if a local government committed a procedural error in following legislative rather quasi-judicial procedures, if the only claimed prejudice to petitioner’s substantial rights is inadequate time to prepare its case and LUBA concludes the local government provided petitioner ample time to prepare its case, there is no basis for reversal or remand. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** ORS 215.503(2)(a), requiring all legislative acts related to comprehensive plans or zoning adopted by a county governing body to be by ordinance, applies to legislative decisions adopting or amending comprehensive plans and zoning ordinances, not to quasi-judicial plan or zone changes. *Sahagian v. Columbia County*, 27 Or LUBA 592 (1994).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A comprehensive plan amendment is quasi-judicial in nature if it results from a private development application, must comply with criteria in the Statewide Planning Goals and the plan itself, and affects a specific area, involving one property owner and a single property. *Graville Properties, Ltd. v. City of Eugene*, 27 Or LUBA 583 (1994).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Applying the three-factor analysis used by the Oregon Supreme Court in *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979), a city council-initiated ordinance amending the city code to list non-profit rehabilitation training centers as a conditional use in several of the city’s residential zones is legislative in nature. *Andrews v. City of Brookings*, 27 Or LUBA 39 (1994).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** There is no legal requirement that local governments adopt findings in support of legislative land use decisions. Where a local government does not adopt findings explaining why a challenged legislative land use decision complies with applicable approval criteria, LUBA relies on the responding parties to provide argument and citations to the record to assist in the resolution of petitioners’ allegations. *Andrews v. City of Brookings*, 27 Or LUBA 39 (1994).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** That a local government subsequently readopted a challenged decision changing the plan and zone designations of many properties, minus the plan and zone designation change affecting petitioner’s property, is irrelevant to the question of whether the original decision itself is legislative or quasi-judicial. *McInnis v. City of Portland*, 27 Or LUBA 1 (1994).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Testimony and discussion concerning specific properties, presented during the course of legislative proceedings concerning many thousands of acres, owned and occupied by many thousands of people, does not convert such legislative proceedings into a collection of many quasi-judicial proceedings. *McInnis v. City of Portland*, 27 Or LUBA 1 (1994).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** In determining whether a decision is legislative or quasi-judicial, that the decision is “bound to apply preexisting criteria to concrete facts” should be given lesser weight where the decision also establishes new policy objectives. *McInnis v. City of Portland*, 27 Or LUBA 1 (1994).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** The proper test for determining whether a decision is quasi-judicial or legislative is set out in *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 602-03, 601 P2d 769 (1979). However, no one of the three criteria set out in *Strawberry Hill* is determinative. *ODOT v. Klamath County*, 25 Or LUBA 761 (1993).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A local government decision not to adopt proposed plan and land use regulation amendments designating a single 10.5-acre property as a Goal 5 resource site is quasi-judicial, rather than legislative. *ODOT v. Klamath County*, 25 Or LUBA 761 (1993).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** ORS 215.130(1) indicates the legislature contemplated that legislative land use decisions could be adopted by the electorate. However, nothing exempts legislative land use decisions from the procedural and substantive requirements applicable to the enactment of legislation affecting land use. Therefore, a decision adopted by the electorate is subject to the requirements governing legislative land use decisions. *Riverbend Landfill Company v. Yamhill County*, 24 Or LUBA 466 (1993).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** While nothing requires that all legislative land use decisions be supported by findings, in order for LUBA to perform its review function, it is necessary either that legislative land use decisions be accompanied by findings of compliance with relevant legal standards or that respondents explain in their briefs how the legislative decision complies with applicable legal standards. *Riverbend Landfill Company v. Yamhill County*, 24 Or LUBA 466 (1993).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** There is no statutory requirement that legislative decisions be supported by substantial evidence. *Riverbend Landfill Company v. Yamhill County*, 24 Or LUBA 466 (1993).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A decision adopting an aggregate study, plan and zoning text amendments, and new zoning and plan map designations for six separate properties comprising 227 acres, and making recommendations for future action regarding one of the six properties, is correctly viewed as a whole and, so viewed, is legislative rather than quasi-judicial. *Leonard v. Union County*, 24 Or LUBA 362 (1992).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** A general plan policy concerning transportation safety does not require that findings supporting a legislative comprehensive plan transportation map amendment negate every potential safety problem that might result from future implementation of the improvements authorized by the plan amendment. *Davenport v. City of Tigard*, 23 Or LUBA 565 (1992).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** ORS 197.835(7)(a)(C) does not require a legislative land use decision to be supported by substantial evidence. Where petitioners cite no independent basis for a requirement that the challenged legislative land use decision be supported by substantial evidence, petitioners provide no basis for reversal or remand. *Cope v. City of Cannon Beach*, 23 Or LUBA 233 (1992).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** ORS 197.835(7)(a)(C) does not impose a substantive requirement that legislative land use decisions be supported by substantial evidence in the whole record. *Alexiou v. Curry County*, 22 Or LUBA 639 (1992).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** The factors which must be considered in determining whether a local government decision is quasi-judicial in nature are whether (1) the process is bound to result in a decision, (2) the decision is bound to apply preexisting criteria to concrete facts, and (3) the action is directed at a closely circumscribed factual situation or a relatively small number of persons. *Alexiou v. Curry County*, 22 Or LUBA 639 (1992).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** In determining whether a plan map amendment is quasi-judicial rather than legislative, the third of three factors to be considered under *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979), is whether the decision is “directed at a closely circumscribed factual situation or a relatively small number of persons.” A decision directed at a variety of transportation planning issues for a study area encompassing a large area of the city does not satisfy that factor. *Davenport v. City of Tigard*, 22 Or LUBA 577 (1992).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** That a plan map amendment is legislative rather than quasi-judicial does not mean that the statewide planning goals or comprehensive plan or code provisions do not apply to the decision. Neither does it necessarily mean findings in support of the decision are not required. *Davenport v. City of Tigard*, 22 Or LUBA 577 (1992).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Where substantive approval standards are the same, a local government error in characterizing a plan map

amendment as legislative, rather than quasi-judicial, is procedural in nature and warrants reversal or remand only if petitioners demonstrate their substantial rights were prejudiced because of failure to provide the procedural safeguards required in a quasi-judicial proceeding. *Gray v. Clatsop County*, 22 Or LUBA 270 (1991).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Individual written notice of decision is not required for a county to make a legislative land use decision. *Crone v. Clackamas County*, 21 Or LUBA 102 (1991).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Both legislative and quasi-judicial land use decisions must comply with applicable land use standards, including the statewide planning goals. *Jentzsch v. City of Sherwood*, 20 Or LUBA 575 (1991).

**25.7 Local Government Procedures – Legislative/Quasi-judicial Distinction.** Findings addressing land use standards may or may not be required to support a legislative land use decision. However, the absence of such findings has no bearing on whether a decision actually is a land use decision. *Jentzsch v. City of Sherwood*, 20 Or LUBA 575 (1991).