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I am writing to submit the following comments to the draft public participation plan.

I believe that the designation of the expansion of the Lummi Island MRL as quasi-judicial should be reconsidered and changed from a Level 1 to a Level 3. It appears that the Planning Department is misapplying the legal requirements in designating this issue quasi-judicial and as a result limiting the public process that such a significant zoning change should require.

RCW 42.36.010 states specifically that quasi-judicial actions do not include the legislative actions of adopting, amending or revising the comp plan. Even though a zoning amendment might affect specific individuals that alone does not automatically convert the proceeding to a quasi-judicial hearing.

In *Raynes v. Leavenworth*, 118 Wn.2d 237 (1992) the Washington Supreme Court considered this issue and determined that the fact that the solution chosen had a high impact on only a few people did not alter the fundamental nature of the discussion into a quasi-judicial hearing. In its ruling the Supreme Court held that adopting a zoning amendment is not a duty generally performed by the courts, nor does it involve the application of current law to a factual circumstance, but it is instead a policymaking role of the legislative body that is the county council.

A quasi-judicial designation only applies to those actions by the legislative body that are adjudicatory in nature. The appearance of fairness doctrine which sets the standard for quasi-judicial hearings by its own term limits its applicability in regard to land-use decisions. The statute also specifically excludes action taken by the legislative body to adopt or revise comp plans.

In the *Raynes* case it was argued that the action had been quasi-judicial because the rights of specific parties were at issue, and the amendment being considered did not have area-wide significance. The Washington Supreme Court ruled that the fact that the ordinance affects specific individuals is not a sufficient reason to classify the proceedings as quasi-judicial.

Here, as in the *Raynes* case, to categorize the policy decision to expand and MRL as quasi-judicial would render RCW 42.36.0101 ineffective and would defeat the intent of the Legislature to exclude text amendments from the definitional scope of quasi-judicial. Doing so would violate the public process requirements for comp plan amendments.

Janice Holmes