

1                   BEFORE THE LAND USE BOARD OF APPEALS  
2                   OF THE STATE OF OREGON

3  
4                   ROGUE ADVOCATES,  
5                   *Petitioner,*

6  
7                   vs.

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9                   JOSEPHINE COUNTY,  
10                  *Respondent.*

11  
12                  LUBA No. 2024-013

13  
14                  FINAL OPINION  
15                  AND ORDER

16  
17                  Appeal from Josephine County.

18  
19                  Kelly Chang filed the petition for review and reply brief and argued on  
20 behalf of petitioner. Also on the brief were Maura Fahey and Crag Law Center.

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22                  Stephanie Nuttall filed the respondent's brief and argued on behalf of  
23 respondent.

24  
25                  RYAN, Board Chair; RUDD, Board Member; ZAMUDIO, Board  
26 Member, participated in the decision.

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28                  REMANDED                                  07/12/2024

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30                  You are entitled to judicial review of this Order. Judicial review is  
31 governed by the provisions of ORS 197.850.

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**NATURE OF THE DECISION**

Petitioner appeals Ordinance 2024-001, a county ordinance amending the Josephine County Code Wildfire and Emergency Safety Standards and Standards and Criteria for New Dwellings.

**BACKGROUND**

In February 2024 the board of commissioners adopted Ordinance 2024-001 (the Ordinance).

**A. Differing Versions of the Ordinance**

As a preliminary matter, we note that the version of the Ordinance that is appended to the petition for review as Exhibit A does not indicate that it was copied from the record, and as far as we are aware, that version does not appear in the record of the local proceedings. In a footnote, the petition for review states that “[t]he text of the Code Amendments are included in the record at Rec[ord] 38-51.” Petition for Review 6 n 2. However, the version of the Ordinance that is appended to the petition for review is not the version of the proposed amendments found at Record 38 to 51. The version of the Ordinance appended to the petition for review appears to contain typographical errors in the Ordinance’s references to the codified section of the Josephine County Code (JCC) that the Ordinance amends. For example, in that version, Section 1 of the Ordinance includes the heading “JCC 19.76.020” multiple times, while the version at Record 38 to 51 indicates that the Ordinance amended multiple subsections of JCC 19.76. We

1 assume in this opinion that the Ordinance amended JCC 19.76.020, JCC  
2 19.76.060, and JCC 19.76.100.

3 **B. The JCC Amendments**

4 ORS 215.730(1)(b)(D) requires a local government that approves a  
5 dwelling within a forest zone to condition approval of the dwelling on a  
6 requirement that it must be “located upon a parcel within a fire protection district  
7 or is provided with residential fire protection by contract.”<sup>1</sup> ORS 215.730(2)

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<sup>1</sup> ORS 215.730 provides:

“(1) A local government shall require as a condition of approval of a single-family dwelling allowed under ORS 215.705 on lands zoned forestland that:

“(a)(A) If the lot or parcel is more than 30 acres in eastern Oregon as defined in ORS 321.805, the property owner submits a stocking survey report to the assessor and the assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met; or

“(B) If the lot or parcel is more than 10 acres in western Oregon as defined in ORS 321.257, the property owner submits a stocking survey report to the assessor and the assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.

“(b) The dwelling meets the following requirements:

“(A) The dwelling has a fire retardant roof.

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- “(B) The dwelling will not be sited on a slope of greater than 40 percent.
  - “(C) Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class II stream as designated by the State Board of Forestry.
  - “(D) The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.
  - “(E) If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.
  - “(F) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.
  - “(G) The owner provides and maintains primary fuel-free break and secondary break areas on land surrounding the dwelling that is owned or controlled by the owner.

“(2)(a) If a governing body determines that meeting the requirement of subsection (1)(b)(D) of this section would be impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions.

“(b) If a water supply is required under this subsection, it shall be a swimming pool, pond, lake or similar body of water that at all times contains at least 4,000 gallons or a stream that has a minimum flow of at least one cubic foot per second. Road

1 provides an exception to complying with ORS 215.730(1)(b)(D) where  
2 compliance is impracticable. OAR 660-006-0035 implements and mirrors the  
3 statutory requirements.

4 JCC 19.76 implements the statute and rule. Under the unamended version  
5 of JCC 19.76.060, an applicant for a dwelling on any land in the county was  
6 required to provide proof of fire protection service by demonstrating that the  
7 dwelling would be located on property located within a “fire protection district”  
8 or by contracting with a commercial fire service provider for fire protection  
9 services. If an applicant was unable to demonstrate either of those, then an on-  
10 site fire protection plan was required.

11 The amendments to JCC 19.76.060 require that for dwellings in the forest  
12 zone, an applicant for a new, replacement or restored dwelling on “forestland”  
13 “as defined in ORS 477.001(9)” must provide proof that the property is located  
14 in a “fire protection district *and/or forest protection district*” unless doing so is  
15 impracticable.<sup>2</sup> Record 43 (Emphasis added). JCC 19.76.060(C), as amended,  
16 provides:

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access shall be provided to within 15 feet of the water’s edge  
for fire-fighting pumping units, and the road access shall  
accommodate a turnaround for fire-fighting equipment.”

<sup>2</sup> ORS 477.001(9) provides:

“‘Forestland’ means any woodland, brushland, timberland, grazing  
land or clearing that, during any time of the year, contains enough  
forest growth, slashing or vegetation to constitute, in the judgment

1 “On-Site Fire Protection Plan. If the options described in  
2 subsections (A) and (B) of this section are not achieved, the owner  
3 shall devise and implement a special on-site fire protection plan as  
4 a condition of the permit. The plan shall include measures such as  
5 on-site water storage, fire sprinkling systems, additional safety  
6 zones, the placement of structures in the most defensible locations,  
7 storage of on-site firefighting equipment, and any other practical and  
8 effective measures given the conditions at the site. The special on-  
9 site fire mitigation measures shall be reviewed and approved  
10 utilizing the modification of standards procedures contained in JCC  
11 19.76.090 *Note: In the forest zone, a dwelling shall be located in*  
12 *accordance with subsections (A) and (B) of this section and only (C)*  
13 *if residential fire protection is determined to be impracticable per*  
14 *OAR 660-006-0035.” Record 43 (emphasis added).*

15 For all other dwellings in the county, the amendments to JCC 19.76.020,  
16 19.76.060, and JCC 19.76.100 remove the previous requirement to provide proof  
17 of fire protection services, submit an on-site fire protection plan or provide on-  
18 site fire mitigation and accordingly, except for construction standards and  
19 vegetation mitigation, no fire protection is required.

20 After the board of commissioners adopted the Ordinance, petitioner  
21 appealed.

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of the forester, a fire hazard, regardless of how the land is zoned or  
taxed. As used in this subsection, ‘clearing’ means any grassland,  
improved area, lake, meadow, mechanically or manually cleared  
area, road, rocky area, stream or other similar forestland opening  
that is surrounded by or contiguous to forestland and that has been  
included in areas classified as forestland under ORS 526.305 to  
526.370.”

1 **FIRST ASSIGNMENT OF ERROR**

2 In its first assignment of error, petitioner argues that the amendments to  
3 the JCC criteria that apply to dwellings in the forest zone are impermissibly  
4 inconsistent with and improperly construe ORS 215.730(1)(b)(D) because the  
5 statute requires a showing of location within a “fire protection district,” while  
6 JCC 19.76.060 allows an applicant to rely on location within a “forest protection  
7 district.” According to petitioner, a “forest protection district” is not a “fire  
8 protection district” as that term is used in ORS 215.730(1)(b)(D).

9 The county responds first that the amended JCC 19.76.060 is consistent  
10 with ORS 215.730(1)(b)(D) because, according to the county, “[a] forest  
11 protection district is a form of fire protection district.” Respondent’s Brief 7  
12 (emphasis omitted). The county argues that the phrase “fire protection district”  
13 in ORS 215.730(1)(b)(D) has a broader meaning than a rural fire protection  
14 district organized under ORS chapter 478 and includes a “forest protection  
15 district.” In support of its argument, the county cites other statutes that use the  
16 phrase “rural fire protection district organized under ORS chapter 478,” and  
17 argues that when the legislature wants to require a particular kind of fire  
18 protection district, it does so. Respondent’s Brief 7 (citing ORS 174.116(2)(u)  
19 (defining “local service district” to mean “[a] rural fire protection district  
20 organized under ORS chapter 478”); ORS 197A.315(1)(d) (defining “district” as  
21 used in that statute for purposes of required notice of an evaluation or amendment  
22 of an urban growth boundary to include “[a] rural fire protection district

1 organized under ORS chapter 478”); ORS 198.010(14) (defining “district” for  
2 purposes of the chapter to include “[a] rural fire protection district organized  
3 under ORS chapter 478”); ORS 199.420(9) (defining “district” for the purposes  
4 of the chapter as “[r]ural fire protection district organized under ORS chapter  
5 479”); ORS 242.702(9) (defining “political subdivision” as including a “rural fire  
6 protection district”); ORS 255.012(17) (including in the general definition of  
7 “district” “[a] rural fire protection district organized under ORS chapter 478”);  
8 ORS 451.573(3)(e) (defining “[s]pecial district” to include “[a] rural fire  
9 protection district organized under ORS chapter 478”); ORS 215.757(2)(d)  
10 (allowing a dwelling in support of family forestry if the parcel is located within  
11 “[a] rural fire protection district organized under ORS chapter 478”).

12 LUBA will reverse or remand a local government’s land use decision if it  
13 “improperly construed the applicable law[.]” ORS 197.835(9)(a)(D); OAR 661-  
14 010-0071(2)(d). Resolving the first assignment of error requires us to ascertain  
15 the meaning of the phrase “fire protection district” in ORS 215.730(1)(b)(D). In  
16 interpreting statutes, we examine the statutory text, context, and legislative  
17 history with the goal of discerning the enacting legislature’s intent. *State v.*  
18 *Gaines*, 346 Or 160, 171-72, 206 P3d 1042 (2009); *PGE v. Bureau of Labor and*  
19 *Industries*, 317 Or 606, 610-12, 859 P2d 1143 (1993). We are independently  
20 responsible for correctly construing statutes. *See* ORS 197.805 (providing the  
21 legislative directive that LUBA “decisions be made consistently with sound  
22 principles governing judicial review”); *Gunderson, LLC v. City of Portland*, 352



1 Or 648, 662, 290 P3d 803 (2012) (“In construing statutes and administrative  
2 rules, we are obliged to determine the correct interpretation, regardless of the  
3 nature of the parties’ arguments or the quality of the information that they supply  
4 to the court.” (citing *Dept. of Human Services v. J. R. F.*, 351 Or 570, 579, 273  
5 P3d 87 (2012); *Stull v. Hoke*, 326 Or 72, 77, 948 P2d 722 (1997).)).

6 The phrase “fire protection district” in ORS 215.730(1)(b)(D) is not  
7 defined in ORS chapter 215, so the meaning of the phrase is not clear from the  
8 text. ORS 215.730(1)(b)(D) was enacted in the omnibus legislation introduced as  
9 House Bill (HB) 3661 (1993). Oregon Laws 1993, chapter 792, §5.

10 Context includes other, related statutes that were in effect at the time HB  
11 3661 was enacted. *Stull*, 326 Or at 79-80. At the time HB 3661 was enacted, ORS  
12 478.001(1)(d) was in effect and defined “district” as used in that chapter to mean  
13 “*a rural fire protection district* proposed to be organized or organized under, or  
14 subject to, this chapter.” (Emphasis added.) ORS 477.001(5) (1985) was also in  
15 effect at the time HB 3661 was enacted, and defined “district” as used in that  
16 chapter to mean “*a forest protection district* organized under ORS 477.225.”  
17 (Emphasis added.) ORS 477.225 was likewise in effect and required the state  
18 forester to designate “forest protection districts” within which the forester is  
19 required to protect the forests from wildfire. Fire protection districts and forest  
20 protection districts are distinct from each other and serve different purposes.  
21 Stated simply, a fire protection district is concerned with the structures that house

1 people (and the people) from fire. A forest protection district is concerned with  
2 protecting forests from the effects of forest fires.

3 Both statutes existed at the time HB 3661 was enacted and ORS  
4 215.730(1)(b)(D) uses the phrase “fire protection” to modify the word “district”  
5 and does not use the phrase “forest protection” to modify the word “district,”  
6 even though a forest protection district statute was in effect on the date HB 3661  
7 was enacted. This context supports an interpretation of the phrase “fire protection  
8 district” in ORS 215.730(1)(b)(D) to not include a “forest protection district” as  
9 defined in ORS chapter 477. ORS 174.010 states that in construing statutes we  
10 must “ascertain and declare what is, in terms or in substance, contained therein,  
11 not to insert what has been omitted, or to omit what has been inserted[.]” The  
12 county’s interpretation would require us to insert the words “or forest protection”  
13 after the words “fire protection” in ORS 215.730, in contravention of ORS  
14 174.010.

15 Our understanding of ORS 215.730(1)(b)(D) is also supported by the  
16 context of the remainder of the phrase “[t]he dwelling is located upon a parcel  
17 within a fire protection district or is provided with *residential fire protection* by  
18 contract[.]” and of ORS 215.730(2)(a), which provides:

19 “If a governing body determines that meeting the requirement of  
20 subsection (1)(b)(D) of this section would be impracticable, the  
21 governing body may provide an alternative means *for protecting the*  
22 *dwelling from fire hazards*. The means selected may include a fire  
23 sprinkling system, on-site equipment and water storage or other  
24 methods that are reasonable, given the site conditions.” (Emphasis

1 added.)

2 In enacting the requirement for a “fire protection district,” the legislature intended  
3 for the county to ensure adequate means for protecting a dwelling and its  
4 residents in a forest zone from fire hazards.

5 Finally, legislative history provided to us by petitioner also supports  
6 petitioner’s interpretation. Testimony from the Oregon Department of Forestry  
7 (ODF) provided to the Senate Committee on Agriculture and Natural Resources  
8 explained that “[ODF does not] do structural protection at all \* \* \* [t]he rural fire  
9 protection districts are the folks that will come out and fight the structural fire.”  
10 Reply Brief 4 (quoting Minutes, Senate Agricultural and Natural Resources  
11 Committee, July 30, 1993, 28). Governor Roberts’ Natural Resources Advisor  
12 also testified that “this provision only triggers when a person is not in a rural fire  
13 protection district, and is not under contract for protection.” *Id.* (quoting Minutes,  
14 Senate Agricultural and Natural Resources Committee, July 30, 1993, 29). Given  
15 that HB 3661 for the first time allowed new dwellings to be constructed in forest  
16 zones, it seems likely that the legislature would have relied on a statutory scheme  
17 whose goal is to protect structures and the people who reside in them from fire  
18 hazards.

19 The county also responds that although ORS 215.730(1)(b)(D) requires a  
20 dwelling in a forest zone to be within a fire protection district or have contracted  
21 residential fire protection service in order to develop a dwelling, nothing in the  
22 statute requires protection of *structures* from wildfire. The county argues:

1            “[JCC] 19.76.10 describes the purpose of the chapter as ‘to establish  
2            minimum wildfire and safety mitigation standards’ and that it  
3            provides for ‘reduced review and approval procedures or dwellings’  
4            in zones other than forestland while still applying relevant standards  
5            to all new dwellings. The intent is to mitigate wildfire risk and  
6            reduce threats to structures, not the protection of the structures  
7            themselves.”<sup>3</sup> Respondent’s Brief 9 (emphasis omitted).

8            JCC 19.76.10 provides:

9            “The purpose of this chapter is to establish minimum wildfire and  
10            safety mitigation standards for development, replacement,  
11            substantial improvement or relocation of structures. *This chapter is*  
12            *intended to reduce threats to human life and safety, to structures and*  
13            *to wild lands*, and to improve access in emergencies.

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<sup>3</sup> JCC 19.76.020, as amended, provides in part:

“C. Forest Zones. The development of new structures, the substantial improvement of existing structures, the relocation of structures and the replacement of structures in forest zones (Chapter 19.65 JCC) shall meet the requirements of this chapter.

“D. Other zones. The development of new dwellings in any zone other than the forest zones shall demonstrate compliance with all the applicable standards of this chapter. The relocation or replacement of existing dwellings in any zone other than the forest zones shall be required to demonstrate compliance with the standards for construction (JCC 19.76.030), and vegetation mitigation (JCC 19.76.080) only. Improvements to existing dwellings must only comply with the standards of construction (JCC 19.76.030), except for roofing requirements, as they apply to the new construction and not the existing structure or structures. Compliance for all types of development under this section shall be accomplished by meeting the certification requirements contained in JCC 19.76.100.” Record 39.

1            “It is also the intent of this chapter to achieve the greatest possible  
2 application of wildfire and emergency safety standards by covering  
3 new dwellings where authorized as permitted uses. In order to  
4 achieve this objective, this chapter shall provide for reduced review  
5 and approval procedures for new, preplacement of substantially  
6 improved and relocated dwellings in other zones, as specified in  
7 JCC 19.76.020(D) and 19,76.100(A).” (Emphasis added.)

8            The county’s reading of the JCC to not reflect a concern with protecting  
9 structures is inconsistent with the stated intent of the chapter to reduce threats to  
10 human life and safety and to structures, as well as wildlands. It is also inconsistent  
11 with requirements reflected in the statutes and rule quoted above that specifically  
12 refer to the protection of the dwelling.

13            We also understand this argument to be somewhat derivative of the  
14 county’s argument that the phrase “fire protection district” includes a “forest  
15 protection district” as defined in ORS 477.001(5) that is required to protect  
16 forests from fire. For the reasons explained above, we reject the county’s  
17 argument. The amendment to JCC 19.76.060 improperly construes ORS  
18 215.730(1)(b)(D).

19            The first assignment of error is sustained.

20            **SECOND ASSIGNMENT OF ERROR**

21            In its second assignment of error, petitioner argues that the JCC  
22 amendments are inconsistent with some provisions of the Josephine County  
23 Comprehensive Plan (JCCP) and with Statewide Planning Goal 7 (Areas Subject  
24 to Natural Hazards).

1           **A.     JCCP**

2           Petitioner cites and quotes JCCP provisions that explain that the county  
3 experiences a significantly higher percentage of losses from fires than the  
4 statewide percentage.<sup>4</sup> Petition for Review Ex B, at 7. Petitioner also cites JCCP  
5 provisions that refer to recommendations from a 1976 Fire Study Committee that  
6 recommended that the county “[e]stablish total structural fire protection (every  
7 structure protected) at a minimum of a Class 8 rating in the underprotected high  
8 density areas of the [c]ounty within two years[,]” and “[e]stablish a basic total  
9 structural fire protection system to those less dense areas in the [c]ounty where  
10 practical. Practicality to be determined by the County Planning Staff in  
11 conjunction with the state Fire Marshal’s office.”<sup>5</sup> Petition for Review Ex B, at  
12 7. Petitioner points to the JCCP’s “implementation alternatives” to implement the  
13 recommendations, which include

14           “[f]orm[ing] taxing districts to provide the adequate level of  
15           structural protection as recommended above:

16           “a.     Contract some areas to Existing Departments and/or

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<sup>4</sup> Petitioner attaches a version of JCCP to their petition for review as Exhibit B. The county does not challenge or dispute the accuracy of that version. For purposes of this opinion we assume that it is the current, effective version of the JCCP.

<sup>5</sup> The JCCP explains that “[a] Class 10 rating is equivalent to having no fire protection; a Class 9 rating indicates a rudimentary level of protection; Class 8 indicates an adequate and relatively thorough level of rural fire protection.” Petition for Review Ex B, at 7.

1           “b.    Establish new departments for some areas and/or

2           “c.    Contract with private enterprise.” Petition for Review Ex B,  
3           at 8.

4    Petitioner argues that the JCC amendments are inconsistent with the JCCP  
5    policies and recommendations for structural fire protection and the  
6    implementation alternatives quoted above. Petitioner argues that is so because  
7    under the JCC amendments dwellings on forest land do not need to demonstrate  
8    that they are served by a “structural fire protection system” as the JCCP  
9    contemplates when they need only demonstrate inclusion in a “forest protection  
10   district,” and all other dwellings need not demonstrate any fire protection at all.  
11   Petition for Review 19-20.

12           The county first responds by reprising its responses to the first assignment  
13   of error, which we discuss and reject above. For the same reason, we reject that  
14   response here.

15           The county also responds that the JCCP “does not require the entire county  
16   to be covered by rural fire protection districts and/or contract fire protection  
17   services.” Respondent’s Brief 11. The county argues that “[t]here is basic total  
18   fire protection throughout [the c]ounty” because “[n]early all properties are  
19   covered by a rural fire protection district, contracted fire protection service,  
20   and/or a forest protection district (which provides fire protection, as discussed  
21   above).” *Id.*

22           There is no generally applicable requirement that legislative land use  
23   decisions be supported by findings. However, the decision and record must be

1 sufficient to demonstrate that applicable criteria were applied and “required  
2 considerations were indeed considered.” *Citizens Against Irresponsible Growth*  
3 *v. Metro*, 179 Or App 12, 16 n 6, 38 P3d 956 (2002). The county adopted no  
4 findings explaining how the JCC amendments are consistent with the JCCP and  
5 the county does not point to anything in the Ordinance or the record that is  
6 sufficient to demonstrate that the board of commissioners considered whether the  
7 JCC amendments are consistent with the JCCP. Petitioner requests that LUBA  
8 remand the decision “to address consistency with the [JCCP.]” Petition for  
9 Review 20. Because the decision is remanded under the first assignment of error,  
10 on remand the board of commissioners can consider whether the amendments are  
11 consistent with the JCCP and adopt findings explaining its conclusion.

12 **B. Goal 7**

13 Goal 7 is “[t]o protect people and property from natural hazards.” Also in  
14 the second assignment of error, petitioner argues that the JCC amendments fail  
15 to comply with Goal 7. In support of its argument, petitioner cites and relies on  
16 selected portions of the “Josephine County Multi-Jurisdictional Natural Hazard  
17 Mitigation Plan (NHMP),” which petitioner argues implements “the objectives  
18 of Goal 7.”<sup>6</sup> Petition for Review 18; *see* Petition for Review Ex C.

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<sup>6</sup> The NHMP’s cover page states that it was prepared for the county’s emergency management department, the University of Oregon, the Institute for Policy Research and Engagement, and the Oregon Partnership for Disaster Resilience. Petition for Review Ex C. It is not clear from the portions of the



1           Petitioner does not explain how the NHMP implements the objectives of  
2 Goal 7 or how it is otherwise an approval standard. Petitioner cites portions of  
3 the NHMP, but does not develop any argument that explains how the JCC  
4 amendments fail to comply with the NHMP, or Goal 7. *Deschutes Development*  
5 *v. Deschutes Cty.*, 5 Or LUBA 218, 220 (1982). Absent any developed argument  
6 explaining how the JCC amendments fail to comply with the NHMP or Goal 7,  
7 petitioner’s arguments provide no basis for reversal or remand.

8           The second assignment of error is sustained, in part.

9           **THIRD ASSIGNMENT OF ERROR**

10           Statewide Planning Goal 11 (Public Facilities and Services) requires that  
11 the county “plan and develop a timely, orderly and efficient arrangement of  
12 public facilities and services to serve as a framework for urban and rural  
13 development.” Goal 11 provides that “rural development shall be guided and  
14 supported by types and levels of rural public facilities and services appropriate  
15 for, but limited to, the needs and requirements of the rural areas to be served.”  
16 Goal 11 defines “Rural Facilities and Services” as “facilities and services suitable  
17 and appropriate solely for the needs of rural lands.” The definitions governing  
18 the goals define public facilities and services to include “activities \* \* \* necessary  
19 for the public health, safety and welfare.”

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NHMP appended to the petition for review whether it was adopted as part of the county’s comprehensive plan.

1 In its third assignment of error, petitioner argues that the JCC amendments  
2 fail to comply with Goal 11 because Goal 11 requires the county to demonstrate  
3 that adequate fire protection services are available for residential development on  
4 rural lands. Petitioner cites our decision in *Riggs v. Douglas County*, in which we  
5 held that

6 “adequate fire protection is among the public services necessary for  
7 public health, safety, and welfare that must be considered under  
8 Goal 11. Goal 11 may not mandate a showing that adequate fire  
9 protection is currently available, but it at least requires a  
10 demonstration that adequate fire protection is feasible. The county  
11 must determine the need for and appropriate level of fire protection  
12 service on the subject property before it can make a finding that the  
13 goal requirements are satisfied. The feasibility determination must  
14 (1) consider the type of fire service that is currently available, if any;  
15 (2) determine the appropriate level of fire service for the rural  
16 residential use; and (3) determine the feasibility of providing such  
17 service, if it does not already exist.” 37 Or LUBA 432, 446-47  
18 (1999)

19 Petitioner argues that the county failed to adopt any findings to explain how the  
20 JCC amendments comply with Goal 11. Petition for Review 23-24. As explained  
21 above, there is no generally applicable requirement that legislative land use  
22 decisions be supported by findings. However, the decision and record must be  
23 sufficient to demonstrate that applicable criteria were applied and “required  
24 considerations were indeed considered.” *Citizens Against Irresponsible Growth*,  
25 179 Or App at 16 n 6.

26 The county responds that “as discussed in a January 8, 2024, [rural  
27 planning commission] meeting, nearly all properties in [the county] would have

1 fire protection service through a rural fire protection district, forest protection  
2 district, or contract fire protection service.” Respondent’s Brief 12. The board of  
3 commissioners did not adopt any findings to support the Ordinance and there are  
4 therefore no findings explaining how the JCC amendments are consistent with  
5 Goal 11. The respondent’s brief does not point to anything in the Ordinance itself  
6 or the record that is sufficient to demonstrate that the board of commissioners  
7 considered whether the JCC amendments are consistent with the Goal 11.  
8 Accordingly, we agree with petitioner that the findings are inadequate.

9 The third assignment of error is sustained.

10 The county’s decision is remanded.