APPLICANT: Jordan Cove Energy Project, LP  
c/o Mark Whitlow, Perkins Coie LLP  
1120 NW Couch St. 10th FL.  
Portland OR 974209

OWNER(S): Fort Chicago Holdings II US LLC  
222-3rd Ave SW, Ste 900  
Calgary AB T2P PB4 Canada

Request approval for a two (2) year extension of the development approval period for Jordan Cove Energy Project, LP (JCEP)

DECISION: Approved on September 19, 2013

FILE: ACU-13-22

STAFF CONTACT: Jill Rolfe, Planning Director

MAP NUMBER(S) / LEGAL DESCRIPTION

ASSESSOR’S MAPS: Township 25S Range 13W Section(s) 00/04/05 Tax Lot(s) 200/101, 300/100, 200, 300

PROPERTY LOCATION

The property is located across the bay from the City of North Bend and is accessed via TransPacific Parkway.

APPLICABLE CRITERIA

LDO § 5.0.700  EXPIRATION AND EXTENSION of Conditional Uses

I. BACKGROUND

On December 5, 2007, the Coos County Board of Commissioners “Board” adopted Final Decision and Order 07-11-289PL In the Matter of a Conditional Use HBCU-07-04 Applied for by Jordan Cove Energy Project, L.P. to allow an Industrial & Port Facility (liquefied natural gas import terminal and associated facilities). The decision was subsequently appealed to and remanded by the Land Use Board of Appeals (LUBA). On August 19, 2009, the Board approved the Upland Terminal on remand in Order No. 09-08-053PL. On November 4, 2011, the Planning Director
approved a request to extend the approval period for the Upland Terminal by two (2) years to December 5, 2013.

II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

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SECTION 5.0.700 EXPIRATION AND EXTENSION of Conditional Uses

All conditional uses, except for site plans, variances and land divisions, remain valid for the period set forth in ORS 215.417. Any conditional use not initiated within said time frame may be granted a two year extension as specified in ORS 215.417 provided that:

A. An application for said extension is filed with the Planning Department prior to the expiration of the deadline. The applicant must state the reasons that prevented him from beginning or continuing development within the approval period; and

FINDING: The applicant provided an application for an extension prior to the December 5, 2013 deadline (Received on July 30, 2013). The applicant stated the reasons that prevented it from beginning development within the approval period. Therefore, the applicant has met this criterion.

B. The Planning director finds:
   i. that there have been no substantial changes in the land use pattern of the area or other circumstances sufficient to cause a new conditional use application to be sought for the same use; and

FINDING: There have been no substantial changes in the land use pattern of the area. After looking at other permits in the area, staff is able to confirm that there have been no rezones, no major development and no changes to the ordinance language that would cause the applicant to address additional criteria. Therefore, this criterion has been satisfied.

   ii. that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

FINDING: Staff has reviewed the Board of Commissioners Final Decisions and Orders 07-11-289PL and 09-08-053PL.

In its written request for an extension, the applicant states that they were unable to begin or continue development within the approval period for the following reasons:

As a matter of public record, JCEP’s December 17, 2009 FERC authorization to construct and operate an LNG import terminal and related Pacific Connector pipeline was vacated on April 16, 2012, due to changes in the natural gas market making the building of an import terminal impracticable.

The domestic market for liquefied natural gas shrank dramatically, while the international market for liquefied natural gas increased. This dramatic shift in market conditions forced the Applicant to seek new federal permits in order to shift from an import facility to an export facility.

JCEP filed its application with the FERC on May 21, 2013 seeking authorization to build and operate a liquefaction terminal. The applicant requests an additional two-year extension to allow the FERC and related NEPA process to move forward to completion.

The above circumstances were outside the Applicant’s control, and the Applicant had no ability to prevent or limit their occurrence.
Therefore, the Director can find that the Applicant was unable to begin or continue development during the approval period for reasons for which Applicant was not responsible.

The fact that the applicant has not been able to complete the review from other agencies within the conditional use time frame complies with the criteria. Therefore, staff finds that due to reasons for which the applicant was not responsible, the applicant was unable to begin development during the approval period. Therefore, staff finds that the applicant has met the requirements for an extension of this application.

Additional extensions granted are ministerial decisions and not a land use decisions as described in ORS 197.015 and are not subject to appeal as land use decisions per OAR 660-33-140(3). (OR-93-12-017PL  2-23-94) (OR-95-05-006 PL  11-29-95) (OR 05-01-002PL 3-21-05)

FINDING: The applicant has requested that the County provide notice of this decision in the same manner as an administrative conditional use to allow for the opportunity for appeal. Staff finds there is no legal reason not to grant this request. Therefore, this has been reviewed as an administrative decision subject to appeal.

### III. ANALYSIS

The Planning Department mailed individual written notice of the decision to the owners of record of all property located within 250-feet of the subject property. Notice of Decision was sent out to all parties of the original decision. In addition, notice of the decision was posted at the Coos County Courthouse, Coquille Annex and North Bend Annex. All notices were mailed and posted on September 19, 2013.

### IV. NOTIFICATION / NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Coos County Hearings Body pursuant to Article 5.8 of the Coos County Zoning and Land Development Ordinance within 15 days from the date of written notice. This means that appeals must be received in the Planning Department by 5 p.m. on October 4, 2013, in order to be considered. This decision will not be final until the period for filing an appeal has expired. Detailed information about the appeal process, filing fees and additional information will be provided by the Planning Department upon request. The decision is based upon the submitted application, supporting evidence, facts, and findings to the criteria.

### V. CONDITIONS OF APPROVAL

All conditions of approval that were listed in Board of Commissioners Final Decisions and Orders 07-11-289PL and 09-08-053PL remain in effect.