

1 **Planning & Zoning Commission Minutes**
 2 **October 20, 2021**

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 4 This is a regular meeting of the Park County Planning & Zoning Commission held at 1:00pm in
 5 the EOC Room of the County Courthouse at 1002 Sheridan Ave., Cody, WY.

6
 7 **Commission Members Present:**

8 Kimberly Brandon-Wintermote, Chairman
 9 Duncan Bonine, Vice Chairman
 10 Eugene Spiering
 11 Richard Jones
 12 Marion Morrison

13
 14 **Staff Present:**

15 Joy Hill, Planning Director
 16 Kim Dillivan, Planner II
 17 Patti Umphlett, Planner I
 18 Jenny Cramer, Planning Technician
 19 Jolene Brakke, Office Assistant III (by virtual means)
 20 Brian Edwards, County Engineer (by virtual means)
 21 Ben McDonald, Public Works (by virtual means)
 22 Mary McKinney, Weed and Pest

23
 24 Chairman Brandon-Wintermote opened the meeting at 1:02pm.

25
 26 **APPROVAL OF MINUTES**

27
 28 Chairman Brandon-Wintermote asked the Commission for comments or changes to the
 29 September 22, 2021 meeting minutes. Chairman Brandon-Wintermote mentioned that Line 259
 30 shows that staff had no comments but she believes it should say that Commission members had
 31 no questions. A MOTION was made by Commissioner Bonine to approve the minutes as
 32 corrected; the motion was SECONDED by Commissioner Spiering to approve the minutes as
 33 corrected. Motion was carried unanimously.
 34

35 **REGULAR AGENDA**

36
 37 **Decision – Inductance Energy Corporation Zoning Map Amendment**

38
 39 Chairman Brandon-Wintermote mentioned that a public hearing was held at the last meeting.
 40 Due to the lack of commission members and the need for additional information, the decision
 41 was delayed. She mentioned that, according to the regulations, a Commission member may not
 42 vote on minutes for a meeting they did not attend. A member may not vote on a project unless
 43 the member was present at all meetings in which the project was considered or listened to the
 44 audio recording of the meeting(s) from which they were absent and reviewed the file.
 45

46 Chairman Brandon-Wintermote asked if Staff had any comments.

- 47 • Kim Dillivan, Planner II, recalled that during the last meeting there were some questions
 48 about the SUP that was approved in spring of 2019. He mentioned the conditions of
 49 approval of the SUP and how two of the conditions were not met, one being fire marshal
 50 inspection and the other being DEQ approval of the use of the small wastewater system.
 51 He added that he noticed in the staff report on page 6 in the history, staff included a history
 52 of the SUP – the conditions listed were for the variance not the SUP. It was an error.
- 53 • Joy Hill, Planning Director, indicated that immediately after the previous meeting, she
 54 reached out to both the Fire Marshall and Wyoming DEQ and confirmed with both that no

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55 action has been completed on the property. Those emails are available for review if
56 requested. She also stressed that the issue before the Commission today is the request
57 for a zoning map amendment. We currently have GR-35 zoning and the applicant is
58 requesting a change to Industrial zoning.
59

60 Chairman Brandon-Wintermote asked if any Commission members had questions for Staff.

- 61 • Commissioner Morrison said she received a call from Rodney Morrison approximately 2
62 weeks ago because he wanted to ensure that he was not affiliated with this and that she
63 does not need to recuse herself – he has no stake in this. He also stated that he was in
64 favor of it.
- 65 • Commissioner Jones mentioned that Mr. Hawley sent him an email, similar to what was
66 received by the other commission members, as mentioned in the previous meeting.
- 67 • Commissioner Morrison asked for the current status of the property as far as zoning and
68 the SUP. The Planning Director said the property is zoned GR-35 – General Rural 35-
69 acre. This means parcel sizes are generally limited to 35-acres. We have certain uses
70 that are allowed and those that are prohibited in this zoning district. The SUP and
71 Variance that were granted, have expired as the use that was permitted was not
72 established. Therefore, there is currently no permitted use on the property.
- 73 • Commissioner Morrison asked if the variance also lapsed – it did.
- 74 • Commissioner Morrison mentioned that the applicant stated that he was unable to get a
75 building permit. The Planning Director responded that there was never prevention of the
76 applicant from using the property. The County issued permission through a variance and
77 SUP to execute the business. However, it was conditioned on Fire Marshall approval and
78 DEQ approval of the septic system. At no time did the County prevent the construction
79 from happening. A building permit cannot be issued without septic approval.
- 80 • Commissioner Morrison asked if ownership of the parcel was ever an issue in the previous
81 proceedings. The Planning Director was unaware of ownership ever being an issue.
- 82 • Chairman Brandon-Wintermote mentioned that the applicant asked if a variance was
83 allowed. She addressed the definition of a variance stating a variance is to grant relief
84 from the requirements of the standards and regulations. The Planning Director supported
85 this definition and added that there are four criteria which must be met in order for the
86 Board to grant a variance. In this case, a variance was granted to allow the use and if
87 it was interpreted that a variance was not legal, it should have been appealed at that time.
- 88 • Commissioner Morrison sought verification whether Resolution 2019-16 stands and GR-
89 35 zoning is the current designation. Staff confirmed that the property is zoned GR-35.
90

91 Commissioner Morrison made a MOTION to deny the request to rezone the property to Industrial
92 (I). The motion was SECONDED by Commissioner Bonine. Commissioner Morrison sought
93 discussion.

- 94 • Commissioner Morrison read language from the regulations about variances. She also
95 read information related to the Land Use Plan. She mentioned that for procedural issues,
96 this commission is not the appropriate venue to handle those concerns. She feels that the
97 County bent over backwards to make this work. It makes sense for this to be zoned GR-
98 35. The Board granted a variance to allow the applicant to do what they wanted to do and
99 an SUP was expeditiously approved soon after. She is in support of the use on the
100 property and an opportunity was provided to do so. She feels the opportunity for a variance
101 is still out there.

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- 102 • Commissioner Jones mentioned that the use could still be possible through a variance,
103 assuming it would be approved. He said industrial, to him, opens up another can of worms
104 for this general area of future development. A variance has a little more control over it than
105 industrial zoning. He supports the motion.
- 106 • Commissioner Bonine wanted to comment on industrial zoning. It is his understanding that
107 it is typically reserved for urban districts which this area definitely is not. He doesn't find it
108 to be appropriate and because of the possibility of a variance in GR-35, that is why he
109 supports the motion.
- 110 • Chairman Brandon-Wintermote mentioned that she feels industrial in this area sets a
111 dangerous precedent for the County.

112
113 All in favor. The motion carried. See Resolution 2021-38 attached hereto and incorporated herein.

114
115 **PUBLIC HEARING – Willwood Dam MS-61 Sketch Plan:** Daniel Martin requests approval of
116 the application and Sketch Plan for the Willwood Dam Minor Subdivision (MS-61) (Applicant:
117 Daniel Martin). The proposed subdivision is comprised of three 5-acre lots, each for residential
118 use. The proposed subdivision is located approximately 3.25 miles southwest of Ralston in Tract
119 5 of Lot 69, T54N, R100W of the 6th P.M., Park County, Wyoming in a General Rural Powell (GR-
120 P) zoning district.

121 Chairman Brandon-Wintermote reviewed public hearing procedure and opened the public
122 hearing at 1:26pm.

123
124 There being no comments from Commission members, Kim Dillivan, Planner II, presented the
125 Staff Report.

126
127 Chairman Brandon-Wintermote asked if any Commission members had questions for Staff.

- 128 • Chairman Brandon-Wintermote asked about the soils data or lack thereof.
- 129 • Commissioner Spiering said he noticed that the sample taken from the well did not meet
130 the safe drinking water act for bacteria. He misread the staff report. Staff noted that it is
131 deemed safe.
- 132 • Public Works indicated they have not submitted a letter. They have no issues with the
133 subdivision as proposed. They will address access through the right-of-way permit
134 process. All accesses will need to be approved. A drainage plan is not required. Kim
135 Dillivan added that the applicant is not proposing any roads.
- 136 • Mary McKinney, Weed and Pest, said there is not a weed plan as of yet. She is willing to
137 work with the applicant. She would like the final plat to show that there is a noxious weed
138 plan in effect for the subdivision. She also requests that any disturbances be reseeded.
139 The Planning Director asked if the weed plan addresses revegetation or reseeding. Mary
140 said it does.

141
142 Chairman Brandon-Wintermote asked if the applicant had any questions or comments.

- 143 • Edward Reed, Morrison-Maierle, spoke on behalf of the applicant. He simply requests
144 review and approval.
- 145 • Chairman Brandon-Wintermote asked about the irrigation district side of things. Ed said
146 the District has not made a determination at this time. It is complicated.

147
148 Chairman Brandon-Wintermote asked if there were questions for the applicant.

- 149 • Chairman Brandon-Wintermote asked where the easement for power may be placed. Ed
150 said there has already been discussion with Garland Light and Power. Kim Dillivan pointed

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151 out some symbols on the sketch plan for power. Ed said they expect to continue with
152 power along the County right-of-way and bring it into the northeast corner of Lot 1.

- 153 • Commissioner Morrison sought clarification of where the water sample was taken from.
154 Property to the northeast was pointed out by Ed.

155
156 Chairman Brandon-Wintermote asked if there were comments from any members of the public.

- 157 • Donna Schuette, a nearby property owner, said her concern is the water table in the area,
158 the depth of wells and tapping additional wells, in addition to any agricultural wells that
159 have been drilled. Has anyone studied this or the effects on the water table? Chairman
160 Brandon-Wintermote said it is a huge question Countywide.

- 161 • Commissioner Morrison asked Ms. Schuette about her well. How deep and if any
162 problems. She hasn't had problems. She was told water was found at 33 feet, and the well
163 goes to 60 or 70 feet. It tested beautifully and she has no filtration as far as quality goes.

- 164 • Commissioner Jones asked if the canal ran through her property. She said it is next to her
165 property.

166
167 Chairman Brandon-Wintermote asked if there were additional questions.

- 168 - Commissioner Morrison mentioned finding #37 in the staff report states there are no water
169 rights. Chairman Brandon-Wintermote mentioned that the MLS showed none, but the
170 canal runs through it.

- 171 - Ms. Schuette said it is her understanding that, if she were to put a hose in the ditch, she
172 would have to pay for that water. But if she put it in the canal she wouldn't have to pay,
173 she thinks. She pays Willwood a fee.

- 174 - Kim Dillivan said it would be useful for the district to confirm that there are no water rights.

- 175 - Commissioner Morrison sought discussion on the soils report. Commissioner Bonine said
176 it would likely not change their review without it. Chairman Brandon-Wintermote wondered
177 how much a soils analysis would cost. Commissioner Jones said a lot. The Planning
178 Director added that there are many areas in the County where soils data are lacking. It is
179 not really the subdivider's fault in those cases. Statute just says the Conservation District
180 has to respond. They responded and stated that there is no data. There are other ways to
181 discern soil conditions once development occurs, for instance small wastewater system
182 permitting requirements.

- 183 - Commissioner Morrison stressed the requirement for down-shielding of exterior lighting to
184 preserve the night sky.

185
186 Commissioner Bonine made a MOTION to close the hearing at 2:01pm; SECONDED by
187 Commissioner Jones. The motion was carried unanimously.

188
189 Commissioner Morrison made a MOTION to approve Willwood MS-61 Sketch Plan by Resolution
190 2021-39 based upon the findings presented and including the following conditions:

- 191
- 192 1. The applicant shall provide all easements as requested by applicable utilities and
193 special districts, irrigation districts or public agencies providing services. The width of
194 any utility easement shall be sufficient to allow adequate maintenance of the system,
195 but in no case shall such utility easement be less than 20 feet in width. Easements
196 must be identified on the final plat;

- 197 2. Prior to sketch plan review by the Board of County Commissioners, the applicant
198 shall provide a formal response from Park County Public Works to the Planning &

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- 199 Zoning Department;
- 200 3. Prior to final plat review by the Board of County Commissioners, an approved
201 Subdivision Improvements Agreement will be required;
- 202 4. Prior to final plat review by the Board of County Commissioners, the applicant shall
203 provide an approved Long-Term Noxious Weed Management Plan to the Planning
204 and Zoning Department;
- 205 5. Prior to final plat review by the Board of County Commissioners, the applicant shall
206 provide comments, including confirmation of water rights status, from the Willwood
207 Irrigation District to the Planning & Zoning Department, and satisfy any Irrigation
208 District conditions; and
- 209 6. The applicant shall otherwise comply with standards in the Park County Development
210 Regulations and the minimum subdivision requirements as set forth in Wyoming
211 Statute 18-5-306.

212
213 The motion was SECONDED by Commissioner Spiering. Commissioner Bonine asked for
214 discussion on Condition #5. He said the existence or size of any easement for the canal should
215 be shown on the plat. The motion carried unanimously. See Resolution 2021-39 attached hereto
216 and incorporated herein.

217
218 Chairman Brandon-Wintermote stated that she will continue meeting business, adjourn and then
219 commence with the Regulation Amendments Workshop.
220 Chairman Brandon-Wintermote said there was nothing to report for the Commission.

221
222 The Planning Director delivered a report for the Planning and Zoning Department.

223
224 There being no other business, a MOTION was made by Commissioner Morrison to adjourn the
225 meeting at 2:14pm. The motion was seconded by Commissioner Bonine. All in favor.

226
227 Respectfully submitted,

228
229
230



Jolene Brakke, Secretary

**RESOLUTION 2021 - 38
PARK COUNTY PLANNING & ZONING COMMISSION**

**TITLE: RECOMMENDATION TO DENY THE ZONING MAP AMENDMENT REQUEST
OF IEC REAL ESTATE HOLDINGS, LLC.**

WHEREAS, the Planning and Zoning Department received a Zoning Map Amendment Application from the applicant, Inductance Energy Corporation (IEC), on July 2, 2021, including all required application materials;

WHEREAS, the applicant requested review and approval of a Zoning Map Amendment to change the zoning district of a 163.89-acre parcel from General Rural 35-Acre (GR-35) to Industrial (I);

WHEREAS, the parcel is legally described as: T.55N., R.98W., of the 6th P.M. All that portion of the SW1/4 (TRS. K (40.99 ac.), L (41.01 ac.), M (40.96 ac.), & N (40.93 ac.) of the Resurvey Lot 37, encompassing an area of 160 acres, more or less, (Patent Number 3204);

WHEREAS, the parcel is owned by IEC Real Estate Holdings, LLC.,

WHEREAS, the *Park County, Wyoming 2015 Development Standards and Regulations* (adopted September 15, 2015) includes provisions for Zoning Map Amendments as a means of changing zoning district boundaries on the Official Zoning Map of the County;

WHEREAS, a public hearing before the Park County Planning and Zoning Commission (“Commission”) is required for Zoning Map Amendments;

WHEREAS, the Commission held a duly noticed public hearing on September 22, 2021 to consider the Zoning Map Amendment Application, hear testimony from Planning and Zoning Department Staff (“staff”) and the public, and have discussion among the members;

WHEREAS, after closing the public hearing and having discussion, Commission members voted unanimously to defer their decision to their regular meeting at 1:00pm on October 20, 2021, citing the need for additional information from staff related to past or pending permitting activities;

WHEREAS, the Commission held a regular meeting on October 20, 2021 and considered a decision for the Zoning Map Amendment for the parcel and found the following:

1. The Variance and Special Use Permit that were previously granted for a major industrial use on the parcel have expired and no permitted uses currently exist on the parcel;

2. The parcel, when considered within its surroundings, lends itself best to a low-density zoning designation, such as General Rural 35-Acre (GR-35), which supports large-acre parcels and the protection of open spaces;
3. Industrial zoning is reserved for urban districts, which this area is not;
4. The variance process is available to allow for industrial use to occur on this parcel within a GR-35 zoning district; and
5. Zoning the parcel Industrial would set a dangerous precedent in the general area.

WHEREAS, the Planning & Zoning Commission concludes that the proposed Zoning Map Amendment does not meet all of the criteria required to approve the request;

NOW, THEREFORE, BE IT RESOLVED based on the foregoing, the Planning & Zoning Commission hereby recommends denial of IEC's Zoning Map Amendment request, thereby upholding the existing GR-35 zoning district designation for the property.


ADOPTED by the Park County Planning & Zoning Commission this 20th day of October, 2021.

**PLANNING AND ZONING COMMISSION
PARK COUNTY, WYOMING**

ATTEST:



Kimberly Brandon-Wintermote, Chair



Jolene Brakke, Secretary

**RESOLUTION 2021 – 39
PARK COUNTY PLANNING & ZONING COMMISSION**

**TITLE: RECOMMENDATION TO APPROVE
WILLWOOD DAM MINOR SUBDIVISION-61 (MS-61) SKETCH PLAN**

WHEREAS, Daniel Martin seeks approval to create a three-lot subdivision consisting of one 5.06-acre lot and two 5.07-acre lots, all for residential use;

WHEREAS, the proposed subdivision is classified as a minor subdivision which must comply with the Minor Subdivision Review Process;

WHEREAS, the application and supporting documents are in substantial compliance with Park County Development Standards and Regulations pertaining to minor subdivision sketch plans;

WHEREAS, the Planning & Zoning Commission held a duly noticed public hearing on October 20, 2021 to consider the sketch plan application and made findings as follows:

1. A Minor Subdivision Application, including payment, was received on August 30, 2021;
2. The applicant requests approval of a three-lot subdivision consisting of one 5.06-acre lot and two 5.07-acre lots, all for residential use;
3. Applicable Regulations for this development are the *Park County Wyoming 2015 Development Standards and Regulations* adopted September 15, 2015 (“Regulations”);
4. This subdivision meets the requirements for classification as a Minor Subdivision;
5. Ownership is affirmed by Warranty Deed (dated March 19, 2021, Doc. #2021-2022) to Daniel G. Martin;
6. The parcel is described as a parcel of land located in Tract 5 of Lot 69, according to the Government Resurvey, T54N, R100W, 6th P.M., Park County, Wyoming;
7. The proposed subdivision is located approximately 5.25 miles southwest of Ralston and approximately 1.6 miles southeast of US Highway 14A. The property borders County Lane 14, and is approximately 0.10 miles north of the Willwood Dam. This property is addressed as 1654 County Lane 14;
8. The lot sizes as proposed are consistent with the GR-P zoning district;
9. Neighboring land uses in the immediate area of this proposed subdivision are primarily residential and residential vacant land. Property managed by the Bureau of Reclamation directly borders the very southwest corner of this

parcel. Agricultural uses are in the general vicinity. There are several subdivisions in the area;

10. This parcel is vacant land with native vegetation. The west and northwest boundary line of each of the proposed lots has a dirt berm that is several feet high. This berm creates a steep slope down toward the Willwood Canal. The topography is generally flat in the areas of the lots that would be developed;
11. This property is not located within one mile of any municipality; therefore, municipal review is not required;
12. All notice requirements have been met;
13. Agency referral requirements have been met;
14. Park County School District #1 will have bus stops at all access points onto County Lane 14;
15. Park County Fire Protection District #1 has the ability to provide fire protection;
16. Powell Clarks Fork Conservation District stated this property does not have a current soils description or report. A soils report has not been received;
17. Park County Weed & Pest has completed their initial inspection;
18. A Long-Term Noxious Weed Management Plan will be required;
19. USPS has confirmed mail delivery is available to this proposed subdivision
20. Garland Light & Power stated this proposed subdivision is in their territory and they have capacity to serve this development but will require an easement before performing any work;
21. Park County Public Works verified access to the lots in their initial review and will submit a formal response;
22. Black Hills Energy has a gas main located along County Lane 14 and can provide natural gas to this subdivision;
23. Willwood Irrigation District is reviewing this project and a response will be forthcoming;
24. TCT may be able to provide terrestrial wireless, internet and VOIP phone service depending on line of site to one of their towers. Service is not guaranteed;
25. The Park County Treasurer stated property taxes are current on this property;
26. Wyoming Game and Fish stated they have no specific concerns with the proposed subdivision but are concerned with the number of proposed subdivisions;
27. No public comments have been received;
28. A pre-application meeting was held on April 15, 2021;
29. Application submission requirements for sketch plan have been met;

30. Legal access is proposed directly from County Lane 14;
31. No roads are proposed for this subdivision,
32. No hazardous conditions, such as landslides, potential rock falls, open quarries or floods have been reported or are known to exist on the property. The Willwood Irrigation Canal is on the northwest boundary of each proposed lot and could be considered a hazard;
33. Wastewater requirements pertaining to sketch plan review have been met and conventional septic systems will likely be sufficient for this subdivision;
34. A well water sample was collected from a well located at 1652 County Lane 14. The analysis indicates the water sample meets the Safe Drinking Water Act (SDWA) requirements;
35. Agricultural impacts have been addressed;
36. Water rights requirements pertaining to sketch plan review have been met;
37. The applicant states that there are no irrigation water rights on the property;
38. Utility requirements pertaining to sketch plan review have not been met;
39. Electricity is adjacent to each proposed lot except Lot 1;
40. A Subdivision Improvements Agreement is required;
41. Design and improvement standards apply;
42. The subdivision is not within any Overlay District; and
43. No open spaces, natural areas, schools or parks are proposed or required.

WHEREAS, the Planning & Zoning Commission concludes the proposed subdivision is generally consistent with the goals and policies of the Park County Land Use Plan and is consistent with the standards and procedures of the 2015 Park County Development Standards and Regulations;

NOW, THEREFORE, BE IT RESOLVED based on the foregoing, the Planning & Zoning Commission hereby recommends approval of the sketch plan for Willwood Dam Minor Subdivision-61 (MS-61), subject to the following conditions:

1. The applicant shall provide all easements as requested by applicable utilities and special districts, irrigation districts or public agencies providing services. The width of any utility easement shall be sufficient to allow adequate maintenance of the system, but in no case shall such utility easement be less than 20 feet in width. Easements must be identified on the final plat;
2. Prior to sketch plan review by the Board of County Commissioners, the applicant shall provide a formal response from Park County Public Works to the Planning & Zoning Department;
3. Prior to final plat review by the Board of County Commissioners, an approved

Subdivision Improvements Agreement will be required;

4. Prior to final plat review by the Board of County Commissioners, the applicant shall provide an approved Long-Term Noxious Weed Management Plan to the Planning and Zoning Department;
5. Prior to final plat review by the Board of County Commissioners, the applicant shall provide comments, including confirmation of water rights status, from the Willwood Irrigation District to the Planning & Zoning Department, and satisfy any Irrigation District conditions; and
6. The applicant shall otherwise comply with standards in the Park County Development Regulations and the minimum subdivision requirements as set forth in Wyoming Statute 18-5-306.

ADOPTED by the Park County Planning & Zoning Commission this 20th day of October, 2021.

**PLANNING AND ZONING COMMISSION
PARK COUNTY, WYOMING**

ATTEST:



Kimberly Brandon-Wintermote, Chair



Jolene Brakke, Secretary

PLEASE SIGN IN
PLANNING and ZONING COMMISSION
REGULAR MEETING
October 20, 2021

Willwood Dam MS-61 Sketch Plan

	Please PRINT your name	Name of the HEARING OF INTEREST	DO YOU WISH TO SPEAK
1	Ly Wolfson	Inductance	No
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PLEASE SIGN IN
PLANNING and ZONING COMMISSION
REGULAR MEETING
October 20, 2021

		Willwood Dam MS-61 Sketch Plan	
	Please PRINT your name	Name of the HEARING OF INTEREST	DO YOU WISH TO SPEAK
1	Richard Hawley	J E C	YES
2	Edward Reed	willwood Dam MS-61	No
3	Donna Schuette	Willwood	No
4	Mary McKinney	all	
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Park County Planning & Zoning Department

1002 Sheridan Avenue, Suite #109

Cody, Wyoming

(307) 527-8540

PARK COUNTY PLANNING & ZONING COMMISSION

Meeting 1:00 P.M., **Wednesday, October 20, 2021** in the Alternate Emergency Operating Center (EOC Room), basement of the Courthouse Addition
1002 Sheridan Ave. Cody, WY.

This is a regular meeting of the Park County Planning & Zoning Commission open to the public. For more information, please contact the Park County Planning & Zoning Department at 527-8540, 754-8540, or 1-800-786-2844.

APPROVAL OF MINUTES

Approve minutes from September 22, 2021 meeting.

CONSENT AGENDA

~~[J1S SS-280 Sketch Plan](#)~~ - **CANCELLED**

REGULAR AGENDA

[Decision – Inductance Energy Corporation Zoning Map Amendment](#)

[PUBLIC HEARING – Willwood Dam MS-61 Sketch Plan](#)

[Regulation Amendment Workshop](#)

OTHER BUSINESS

1. Chair's Report
2. Planning Director's Report

ADJOURN