WHEN RECORDED, MAIL TO:

KARI JIMENEZ
IVINS CITY
55 NORTH MAIN
IVINS, UT 84738

APN: I-6-2-4-1402

DEVELOPMENT AGREEMENT FOR THE ENCANTO RESORT IN IVINS, UTAH

This Development Agreement (this "Agreement") is made and entered into as of the 4th day of February, 2016 ("Effective Date"), by and between GP IVINS HOMES & LAND, L.C., a Utah limited liability company ("Developer" or "Owner"), and IVINS CITY, a political subdivision of the State of Utah ("City"). Owner and City may each sometimes be referred to herein as a "party" or, collectively as the "parties".

RECITALS

A. Developer is the owner of record of approximately 10.8 acres of real property situated in the City (the "Property"), as more particularly described in Exhibit "A" which is attached hereto and incorporated herein for all purposes.

B. On or about April 22, 2014, Owner submitted an application to the City for approval of a Conditional Use Permit for a resort/condo community consisting of 80 units and commonly referred to as the Encanto Resort (the "Project"). The Project was for a resort/condo project consisting of 10 two-story buildings comprising 80 units. The development proposal was described and shown in drawings and textual material included with the Conditional Use Permit application. On or about July 22, 2015, Owner submitted a Conditional Use Amendment application to change the make-up of the Project from 10 two-story buildings comprising 80 units to 30 single story buildings, each comprising 2 units, for a total of 60 units. The foregoing applications, along with the materials submitted therewith are incorporated herein by this reference.

C. On April 29, 2014, the Ivins Planning Commission recommended approval of the original Conditional Use Permit at a lawfully advertised public hearing/meeting; on June 5, 2014 the Ivins City Council held a lawfully advertised public hearing/meeting and approved the Conditional Use Permit, granting to the Owner the right to develop the Property as shown and described in the application, the materials submitted therewith, Owners' presentation/ representations made at the public hearings/meetings and subject to certain conditions of approval.

D. On August 18, 2015, the Ivins Planning Commission recommended approval of the amended Conditional Use Permit at a lawfully advertised public hearing/meeting to allow 30 single story buildings each containing two units for a total of 60 units rather than the 80 that were originally permitted; on September 3, 2015 the Ivins City Council held a lawfully advertised public hearing/meeting and approved the Amended Conditional Use Permit as recommended by the Planning Commission.

E. In addition to Owner's representation that the Project would be designed, governed and implemented in such a way as to strongly encourage and promote the use of an owner's particular unit(s) as a short-term rental property and to discourage full-time residency at the unit(s), the Conditional Use Permit for the Project, as amended, governing development of the Project is subject to the following specific conditions: 1) buildings along Snow Canyon Parkway must have a minimum setback of forty feet (40') from the back of curb, with no more than 25% of a building encroaching to thirty-five feet (35'); 2) the Owner will use muted earth-tone colors; 3) no fence/wall is required through the lava, rather the lava is to be left in its pristine and natural condition; 4) the single story units shall have a maximum height limit of twenty-five feet (25'); and 5) Owner will not construct any buildings on the southeast corner of the Property but may install a pickleball court and/or basketball court in that location. The Amended Conditional Use Permit, together with the applicable conditions imposed on the Project, is hereinafter sometimes referred to as the "CUP."

F. The materials submitted with the CUP application, as amended, and the materials submitted as part of the presentations made by Owner and/or Owner's representatives at the foregoing described public hearings/meetings are collectively referred to herein as the "Presentation Materials" (Exhibit "B").

G. Following the required public hearings, the Project received Preliminary Plan approval from the City Planning Commission on January 5, 2016, and from the City Council on January 21, 2016, with Final Plat approval to be subject to the City Council's prior approval of a Development Agreement for the Project.

H. The parties desire now to enter into this Development Agreement to further memorialize the development rights, terms, requirements and conditions granted by the CUP, as amended, and now appurtenant to the Property, for the development of the Project as more fully described herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants made herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Conditional Use Permit**. The Property is zoned Resort Commercial under City ordinances. The CUP granted to Owner the right to develop the Project in accordance with the applications and materials submitted to the City and subject to the conditions expressed and/or affirmed by the Ivins City Council in granting the CUP. Without

limiting the generality of the foregoing, such approvals include the right to develop the Property with 30 single story buildings each comprised of 2 units, for a total of 60 units.

2. **Project Plans; Restrictive Covenants**.

a. Project Plans. The Project Preliminary Plan, as well as all exhibits attached hereto (the "Project Plans"), are integral parts of this Agreement. The City's approval of the Project is based upon the City's reliance that the Project will be developed in accordance with the standard and quality of improvements, unit densities, dedication of easements, roadways, and other improvements, as represented in the CUP, Project Plans and this Agreement.

b. Restrictive Covenants. At the time of recording the Final Plat for Encanto, and prior to transferring ownership of any portion of the Property via recorded title, the Owner shall record against the Property covenants, conditions and restrictions approved by the City and consistent with City ordinances and this Agreement (such covenants, conditions, and restrictions, as amended from time to time in a manner consistent with this Agreement being referred to in this Agreement as the "Restrictive Covenants"). The Restrictive Covenants and any purchase agreement for the purchase of a Unit shall contain the following disclaimer to all unit owners:

> "All Owners and Occupants hereby agree and acknowledge that a primary purpose of the Project is to provide overnight occupancy accommodations in support of resort and recreational related activities. Accordingly, all Owners and Occupants understand that there will be persons occupying the Dwellings within the Project as temporary, commercial overnight accommodations and nothing in the Restrictive Covenants shall limit the rights of Declarant or any other Owner to operate the Dwellings owned by it for transient rental purposes."

The foregoing shall not infer enforcement of Restrictive Covenants by the City.

c. Unit Rentals. Developer shall, subject to applicable federal and state law, design, govern and implement the Project in such a way as to strongly encourage and promote the use of an owner's particular unit(s) as a short-term rental property and to discourage full-time residency at the unit(s). Developer openly acknowledges that it will attempt to orient the Project towards destination accommodations, and has endeavored to promote this goal and disclose to potential purchasers that the "primary purpose of the Project is to provide overnight occupancy accommodations in support of resort and recreational related activities. In furtherance thereof, Developer shall provide a rental management option (in accordance with applicable securities laws) at the Project for all owners to rent their units. In addition, owners will also have the option of placing their unit(s) in a rental program with an offsite rental management company of their choosing which is located within 20 twenty minutes (commute time) of the development. The applicable rental management company shall be the 'Responsible Party' for the applicable unit(s) and shall provide information on

current occupants to police, emergency, or city personnel as needed. The applicable rental management company must be available 24 hours a day and shall respond to complaints and concerns within one hour of any phone call. The applicable property manager must maintain a Utah sales tax license, and shall collect & submit to the State Tax Commission the required transient room tax for all short-term residential rental units.

d. Short Term Rental Business Licensing. All rental management companies renting units at the Project shall comply with the following:

(i) Obtain and maintain an annual Short Term Rental Business license as required by Ivins City.

(ii) The licensee for rentals shall be both the local representative and the owner. The local representative shall be deemed the Responsible Party.

(iii) All new and renewal applications must contain the rental management company's name, a sales tax collection and accounting number, the street address of each unit, the name and address of a local responsible party who is available by telephone twenty four (24) hours per day.

e. Penalties, Violations, and Revocation. The owner and applicable rental management company of short term rentals are responsible for regulating the occupancy of the unit and any nuisances created by the occupants including noise, illegal conduct, failure to use off-street parking, or any other abuse, which violates any law regarding use or occupancy of the premises, including failure to collect and deposit sales tax, shall be grounds for revocation of rental business license, and subject to civil and criminal penalties for violation of City Codes and other legal or equitable remedy available to the City.

f. Rental Requirement; Securities Laws. City and Developer acknowledge and agree that any real estate offering which is coupled with developer promoted rental services constitutes an "investment contract" and brings such offering within the scope of securities law. The offering for sale of units in conjunction with any rental arrangement will cause the offering of such unit to be viewed as an offering of a security in the form of an investment contract. In light of the federal securities law outlined above, Developer must take every precaution in connection with the sale of the units in order to avoid characterization of the offer or sale as an investment contract security requiring registration under federal and state securities laws.

3. **Development of the Property**. The Property shall be developed as authorized under the CUP, Preliminary Plan, Project Plans and this Development Agreement (including Exhibits) approved by the City. Building heights, setbacks, parking, approximate lot sizes, unit configuration and other details of the Project are included in the Presentation Materials and, to the extent not shown or described in the Presentation Materials, shall be determined by the applicable provisions of Title 16 of the Ivins City Code ("Zoning Code") in effect at the time the CUP was approved.

a. Development Phasing. The Project shall be developed as a single phase, including all recreation amenities shown or described in the Presentation Materials, *i.e.* the club house, swimming pool, basketball court and pickleball court.

b. Property Studies. A geotechnical study and storm drainage study were prepared for Owner. Owner hereby represents and warrants that Owner has installed infrastructure improvements in accordance with those studies and the Presentation Materials submitted to the City.

c. Property Access and Grading. The entrance and interior roads have already been graded and shall be completed with asphalt. Final grading plans for each development parcel in the Project will provide for finished grades that convey water away from all buildings within the Project.

d. Utilities. Project improvements will tie into existing water, sewer, telephone, power and cable existing within the Snow Canyon Parkway right-of-way. The City acknowledges that many of these Project improvements have already been completed.

(i). Water. Water service for the Project shall be provided by the City, in accordance with its fees and procedures applicable to other property owners and developers in the City. Owner hereby acknowledges the potential shortage of culinary and secondary water in the City and understands and agrees that building permits in the Project will be issued only upon availability thereof at any given time.

(ii) Sewer. Wastewater collection and treatment services will be provided by the City for the Project in accordance with the policies, procedures and standards of the City.

e. Fire Protection. Owner will comply with all applicable provisions of the Fire Code as adopted by the City ("Fire Code") and will substantially comply with the Fire Plan contained in the Presentation Materials. The City acknowledges that many of these Project improvements have already been completed.

f. Landscaping. The landscaping plan for the Project shall be in substantial compliance with the Landscape Plan and Plant List contained in the Presentation Materials.

g. Lighting. All Project lighting must comply with the City's lighting ordinances as set forth in Title 14, Chapter 10 and Title 16, Chapter 22 of the City Code and the City standard specifications for street lights and bollards for trail lighting.

4. **Expiration of Approvals.** In accordance with the Ivins City Subdivision Ordinance (as amended from time to time), if a final subdivision plat is not approved within one (1) year from the date of the preliminary approval, the Preliminary Plan shall be void, unless a one-time extension is requested by the Owner and granted by the City Council; and if

the final subdivision plat is not recorded within one (1) year from the date of approval, the approval shall expire, unless the City Council grants a one-time extension, not to exceed six (6) months.

5. **Default**. In the event any party fails to perform its obligations hereunder or to comply with the terms of this Agreement, the non-defaulting party shall provide the defaulting party written thirty (30) day cure period; provided, however, that if the nature of such default is such that the same cannot reasonably be cured within such thirty (30) day period., then the defaulting party shall have such additional time as is reasonably necessary to cure such default, provided that the defaulting party commences to cure such default within such thirty (30) day period and proceeds to cure such default with diligence and continuity. All notices of default shall be provided in accordance with the Notice provisions set forth below. In the event the defaulting party does not cure the default within the cure period or enter into a written agreement with the non-defaulting party for curing the default within a reasonable time, acceptable to the non-defaulting party in its reasonable discretion, the non-defaulting party may, at its election, have the following remedy or remedies:

   a. All rights and remedies available at law and in equity, including, but not limited to, injunctive relief, specific performance and/or damages.

   b. The right to withhold all further approvals, licenses, permits or other rights associated with the particular parcel or building to which the default is applicable until such default has been cured.

   c. The rights and remedies set forth herein above shall be cumulative.

6. **Notices**. Any notice delivered personally or by mail shall be deemed to have been given when delivered to the addresses set forth below. Any party may change its address by giving notice to the other party as provided below. Any and all notices and demands shall be in writing and shall be validly given or made only if personally delivered or sent by first class United States mail, with delivery confirmation requested, and addressed as follows:

If to Owner:	GP IVINS HOMES & LAND, L.C. 90 South 400 West Salt Lake City, Utah 84101
With a copy to:	Mark Durrant Dorsey & Whitney 136 So. Main St., Suite 1000 Salt Lake City, Utah 84101
If to City:	Ivins City 55 No. Main St. Ivins, Utah 84738 Attn: City Manager

7. **General Provisions.**

a. Attorney's Fees. Each party agrees that should it default in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including a reasonable attorneys fee, which may arise or accrue from enforcing this Agreement or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of Utah, whether such remedy is pursued by filing a lawsuit or otherwise, and whether such costs and expenses are incurred with or without suit or before or after judgment.

b. Headings. Headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

c. No Third Party Rights. Unless otherwise specifically provided herein, the obligations of Owner and the City set forth in this Agreement shall not create any rights in or obligations to any other persons or third parties.

d. Binding Effect. This Agreement shall be binding upon the parties hereto and their respective officers, agents, employees, successors and assigns, as permitted herein.

e. Agreements to Run with the Land. This Agreement shall be recorded against the Property and shall be deemed to run with the land constituting the Property, and shall be binding on all successors in ownership of any subdivided lot or other portion of the Property.

f. Termination. In addition to any other enforcement right or remedy provided herein, and notwithstanding anything in this Development Agreement to the contrary, it is hereby agreed by the parties hereto that in the event the Project is not completed within two (2) years of the date of this Agreement, or in the event Owner does not comply with the provisions of this Agreement, the City shall have the right, but not the obligation, at the sole discretion of the City, to terminate this Agreement.

g. Governing Law and Jurisdiction. The provisions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Utah. The parties to this Agreement agree that any judicial action associated with the Agreement shall be taken in the Utah state or federal court of competent jurisdiction.

h. No Waiver. Any party's failure to enforce any provision of the Agreement shall not constitute a waiver of the right to enforce such provision.

i. Severability. If any portion of this Agreement is held to be unenforceable by court of competent jurisdiction, any enforceable portion thereof and the remaining provisions shall continue in full force and effect.

j. Exhibits and Recitals. The Recitals at the beginning of this Agreement and the referenced attached hereto are incorporated herein by this reference.

k. Time of Essence. Time is expressly made of the essence with respect to the performance of each and every obligation hereunder.

l. No Relationship. Nothing in this Agreement shall be construed to create any partnership, joint venture or fiduciary relationship between the parties.

m. Authorization. The parties represent and warrant that they are duly authorized to enter into this Agreement, that this Agreement shall not violate their charter documents or any other agreement to which they are bound, and that the individual executing this Agreement on behalf of such party is duly authorized and empowered to bind such party to the terms and provisions of this Agreement.

n. Execution of Agreement. This Agreement may be executed in multiple counterparts or originals or by electronic copies of executed originals

o. Amendment. This Agreement may be amended only in writing signed by the parties hereto.

p. Entire Agreement. This Agreement, together with the Exhibits attached hereto and documents referenced herein, contain the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior promises, representations, warranties, inducements or understandings between the parties which are not contained in such agreements, regulatory approvals and related conditions.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first above written.

Ivins City, a political subdivision
of the State of Utah

By: _____

Name:_____

Its:_____

GP Ivins Homes & Land, LC,
a Utah Limited Liability Company

By: _____

Name:_____

Its:_____

STATE OF UTAH)
:ss.
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016 by Chris Hart, the Mayor of Ivins City, State of Utah.

_____
Notary Public

STATE OF UTAH)
: ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016 by _____, a Managing Member of GP Homes & Land, LC.

_____
Notary Public

INDEX TO DEVELOPMENT AGREEMENT
BOOK OF EXHIBITS

EXHIBIT A— Description of the Property

EXHIBIT B—Presentation Materials

EXHIBIT "A"

Parcel Number I-6-2-4-1402

Acres 10.8

Situs , IVINS

Legal BEG S88*43'01 E 122.81 FT ALG SEC/L & N 38.76 FT FM N1/4 COR SEC 4 T42S R16W TH N04*02'31 W 112.93 FT; TH S88*47'01 E 1332.29 FT; TH S01*13'15 W 152.76 FT TO PT ON N LN SEC 4; TH N88*43'01 W 84.28 FT ALG N LN TO NE COR SECL/L 1 SEC 4; TH S0*41'23 W 852.84 FT ALG E LN LOT 1 TO PT PROP NLY R/W/L SNOW CANYON PKWY; TH ALG NLY R/W N43*53'13 W 768.18 FT TO PT OF 710 FT RAD CUR RGT; TH NWLY ALG ARC SD CUR THRU CTL ANG 11*28'16 142.15 FT TO PT OF RVSE CUR LFT RAD BEARS S57*35'03 W 540 FT; TH NWLY ALG ARC SD CUR THRU CTL ANG 56*18'04 530.62 FT TO PT TNGY; TH N88*43'01 W 162.33 FT TO POB. LESS: BEG S88*43'01 E ALG SEC/L 122.80 FT & N 38.76 FT FM N1/4 COR SEC 4 TH N04*02'16 W 112.93 FT; TH S88*46'46 E 539.72 FT; TH S 262.42 FT TO PT ON N R/W SNOW CANYON PKWY BEING ON 540 FT RAD CUR LFT RAD BEARS S44*56'23 W CTL ANG 43*39'24 ; TH ALG ARC CUR & R/W 411.45 FT; TH N88*43'01 W 162.34 FT TO POB.

EXHIBIT "B"

PRESENTATION MATERIALS

IVINS CITY
55 N. Main St. Ivins, UT 84738
Tel. 435-628-0606 Fax 435-674-5486
www.ivins.com

IVINS CITY JUL 27 2015 PAID

Rec'd By: KBC
Filing Fee: $ 1000 —
Receipt #: 150803
Date: 07/27-15
Code: 405 402

CLASS V CONDITIONAL USE AMENDMENT

Fee: $1000

GP Ivins Homes & Land L.C.
Owner of Record

90 S. 400 W. #360
Address

SLC UT 84101
City, State, Zip

Phone – Fax

Encanto
Project Name

Snow Canyon Park Way
Project Address

Owner of Record

Address

City, State, Zip

Phone – Fax

Bush & Gudgell Engineering 673-2337
Agent of Owner & Phone

Signature of applicant — 07/22/15 Date

Signature of property owner — 07/22/15 Date

Signature of property owner — 7/22/15 Date

Requirements for amendment to a Conditional Use Permit

1. Written detailed request for requested amendment.
2. Attach any accompanying justification for amendment.

Date received 7/27/15

Application is complete

Kevin Rudd
Signature of Building and Zoning Administrator

7/27/15
Date

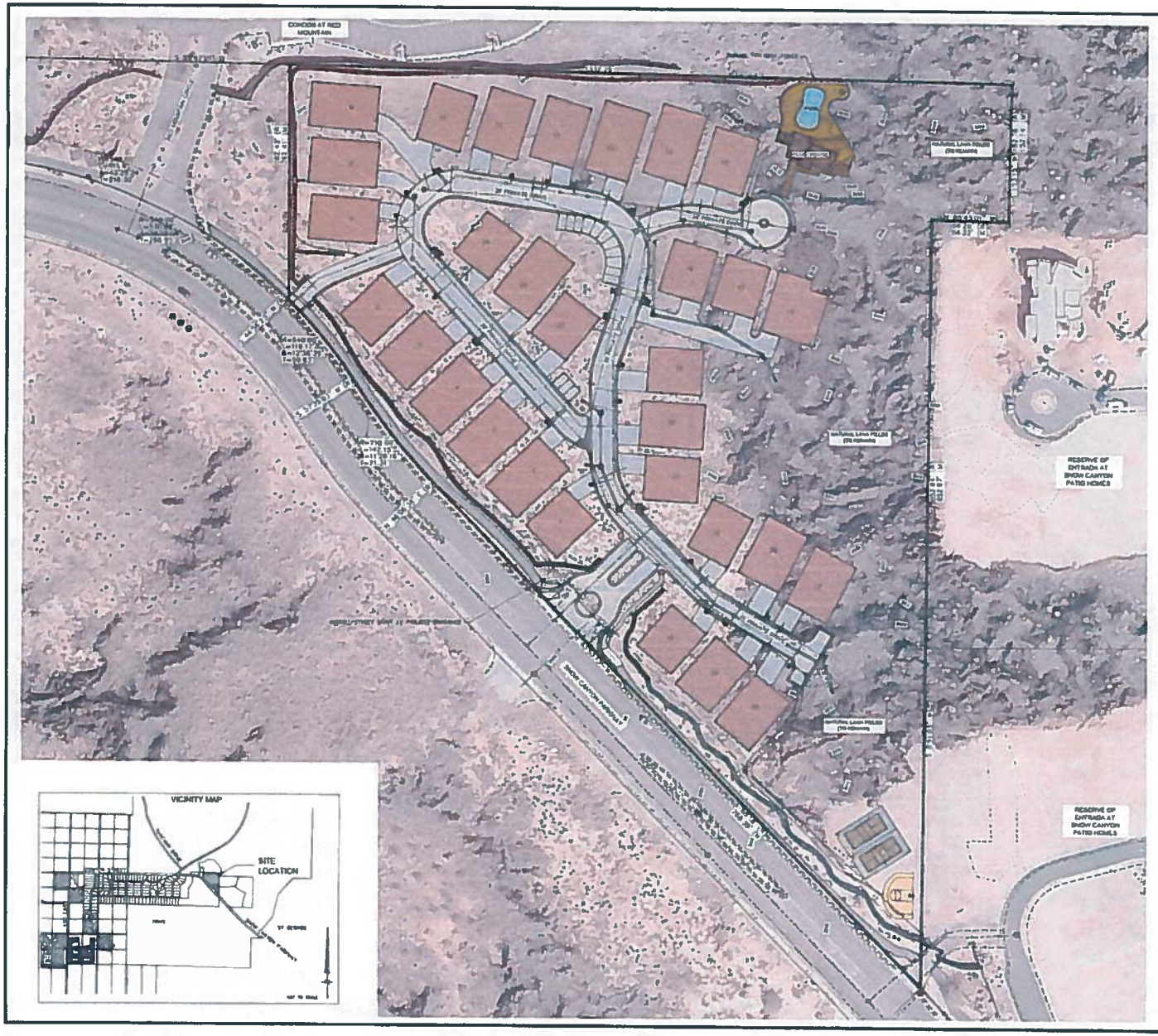
Approved

Approved with Conditions: _____

_____

_____

Denied



GRAPHIC SCALE

LEGEND

TYPICAL UNIT

UNITS HAVE 20 x 20' DRIVEWAYS TYPICAL

LEGAL DESCRIPTION

PROJECT INFO
PROJECT THEME: SINGLE HOME RENTAL PROJECT
ZONING RESORT COMMERCIAL
TOTAL AREA 15.0 ACRES
TOTAL UNITS 35
DENSITY 2.5 DU/AC
PRIVATE DRIVES
PARKING

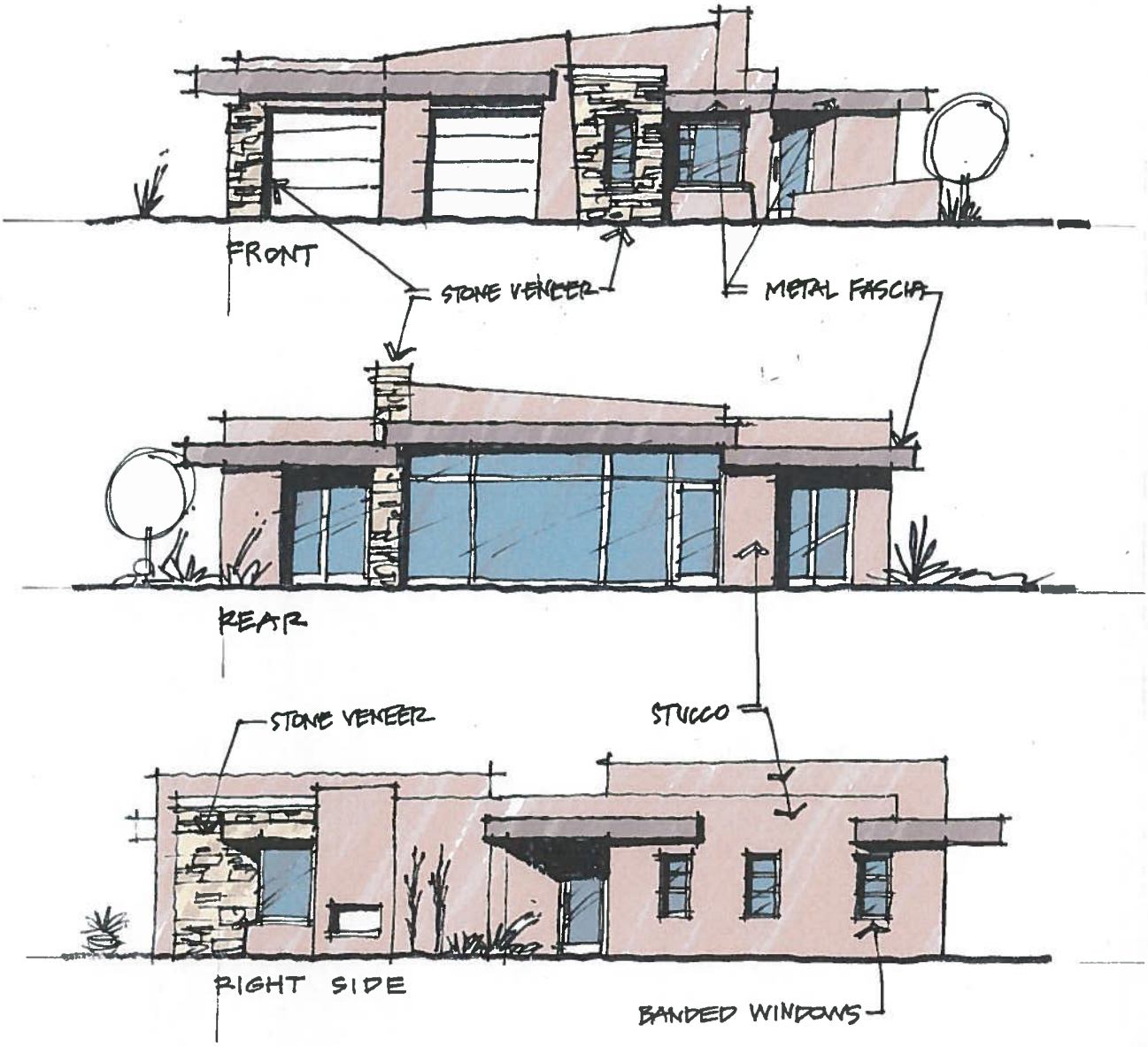
OWNER
GP NINE HOMES 6 LAND LC
WALTER PLUNS
50 SOUTH 600 WEST SUITE 200
SALT LAKE CITY UT 84101
801-456-5140

ENCANTO RESORT

BUSH & GUDGELL, INC.
Engineers - Planners - Surveyors
205 East Tabernacle Suite #4
St. George, Utah 84770
Phone (435) 673-2537 / Fax (435) 673-3161
www.bushandgudgell.com

ENCANTO RESORT
PRELIMINARY PLAN
LOCATED IN IVINS, UT

SHEET 1



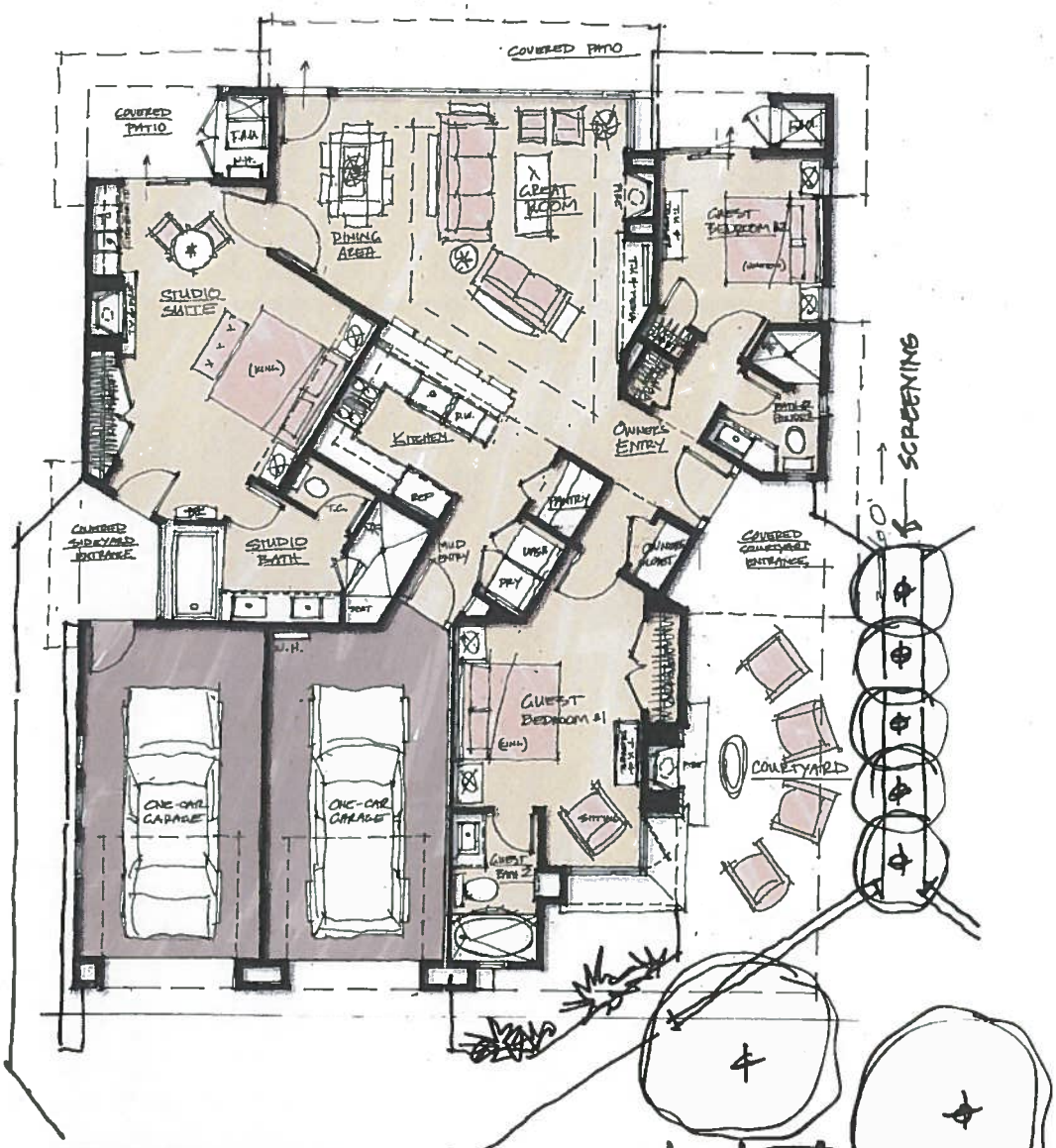
ELEVATIONS

SCALE: 1/8" = 1'-0" 1.21.16

ENCANTO IVINS, UTAH

* 50'x60' SHOWN

McQuay Architects



FLOOR PLAN — 50×80 A

SCALE: 1/8" = 1'-0" — 1.21.16

ENCANTO — IVINS, UTAH

* BASIS FOR EXPANDED PLANS ON LARGER LOTS

McQuay Architects