

**RULES AND APPLICABLE STANDARDS NOT MET IN SNOWBIRD SKI RESORT'S APPEAL #1552 AND #1553 FOR
CONDITIONAL USE IN MINERAL BASIN AND MARY ELLEN GULCH**

<p>Board of Adjustment accepted an incomplete application in violation of 7-20 A</p>	<p>No plot plan was submitted which shows the property boundaries and the location of existing and proposed buildings and land uses within those boundaries. ALL property owners MUST be listed for every mining claim in MB and MEG to prove SB actually owns ALL of the mining claims within the boundaries they are proposing to develop. SB is well aware of the requirements and already tried to request approval on property they do not own in MB. A complete plot plan with proof of ownership must be provided to make the application complete. AN INCOMPLETE APPLICATION WILL NOT BE ACCEPTED!</p>
<p>Board of Adjustment accepted an incomplete application in violation of 7-20 A</p>	<p>Until the BofA sees the plot plan with a complete list of all property owners, it cannot determine if a complete and accurate list of names and addresses of all abutting property owners has been submitted. AN INCOMPLETE APPLICATION WILL NOT BE ACCEPTED!</p>
<p>The conditional use DOES NOT meet the standard of 7-20 C.1. "It shall not degrade the public health, safety, or welfare.</p>	<p>The conditional use will degrade public health. The requirements of Chapter 3-46: H.5. have not been met. Mine Tailings and Water Issues (public health) Also Chapter 3-46: H.3. "The Board of Adjustment must find that neither flooding, water quality, nor other aspects of the environment will be unreasonably diminished by the approval of the development, and that conditions of approval can be attached which can reasonable be expected to mitigate the environmental impacts. A condition of approval should be to clean up all toxic waste sites per best practices before development is allowed in order to assure that water quality and other aspects of the environment will not be unreasonably diminished. There must be zero possibility of diminishment of water quality and the environment.</p>

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The conditional use will degrade public health. The requirements of Chapter 3-46: H.3. have not been met. Snowbird admitted in a letter to Brian Ferebee, Forest Supervisor on November 17, 2010 that there are risks to water quality with development. The letter states the following: " Would convey land in Salt Lake City's municipal watershed to the Forest Service, limiting risks of development and associated potential water quality impacts. " and "Perhaps most importantly, nearly all of the private holdings Snowbird would offer in an exchange are in Salt Lake City's municipal watershed. The city is understandably concerned over potential development in the watershed, and shifting these inholdings to UWCNF management would provide the Forest Service unfettered discretion to manage the watershed as it deems best. "

The conditional use DOES NOT meet the standard of 7-20 C.1. "It shall not degrade the public health, **safety**, or welfare.

The conditional use will degrade public safety. The requirements of Chapter 3-46: H.5. have not been met. "The Board of Adjustment must find that there is adequate evidence that the facilities will have a safe design, and that the risks associated with avalanches, rock fall and other natural hazards have been addressed." There is only one lift to take the public out of the bottom of MEG. At least two lifts should be available (like there is in MB) to address the risks associated with avalanches, rock fall, and other natural hazards - as well as electrical outages or equipment breakdown.

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The conditional use DOES NOT meet the standard of 7-20 C.1. "It shall not degrade the public health, **safety**, or welfare.

The conditional use will degrade public safety. The public has been using the roads, trails, and open space in MEG on SB property on a year-round basis for decades via foot, horseback, 4X4, ATV, motorcycle, mountain bike, snowmobile, snowshoe, and cross-country skiing and have a prescriptive easement per state law to continue to access the roads, trails, and open spaces in MEG on a year-round basis. The prescriptive easement applies not only to the roads and trails but also to the open spaces on SB property beyond the roads and trails. These prescriptive easements on SB property also provide historical access to Forest Service Public lands in MEG. Introducing ski lifts into an area with guaranteed public access will degrade public safety.

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The conditional use DOES NOT meet the standard of 7-20 C.1. "It shall not degrade the public health, safety, or **welfare**."

The conditional use will degrade public welfare. The public has been using the roads, trails, and open space in MEG on SB property on a year-round basis for decades via foot, horseback, 4X4, ATV, motorcycle, mountain bike, snowmobile, snowshoe, and cross-country skiing and have a prescriptive easement per state law to continue to access the roads, trails, and open spaces in MEG on a year-round basis. The prescriptive easement applies not only to the roads and trails but also to the open spaces on SB property beyond the roads and trails. These prescriptive easements on SB property also provide historical access to Forest Service Public lands in MEG. Closing public access in an area with guaranteed public access will degrade public welfare.

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The conditional use DOES NOT meet the standard of 7-20 C.4. "It shall be compatible with the public interest and with the characteristics of the surrounding area.

The conditional use IS NOT compatible with the public interest and with the characteristics of the surrounding area. Forest Service property surrounds this area and according to the 2003 Land and Resource Management Plan of the Uinta National Forest Rec-14 Standard it says, "No additional recreation developments such as golf courses, ski resorts, or tennis courts, or expansion of existing recreation developments outside of the permitted area are allowed except for developments or expansions already approved by the date this revised Forest Plan has been approved." Snowbird's request to expand their permit area boundary onto FS land has been denied per Rec-14 Standard. The proposed lift in MEG on Sunday Saddle is not compatible with the surrounding area which includes wilderness areas as well as undeveloped view shed. The conditional use would also provide ski resort access to the surrounding FS land and that is incompatible with Rec-14 Standard and the characteristics of the surrounding area.

The conditional use DOES NOT meet the standard of 7-20 C.4. "It shall be **compatible with the public interest** and with the characteristics of the surrounding area.

The conditional use IS NOT compatible with the public interest. On page 11 of SB's plan it states, "In the winter, security is straightforward. In the interest of safety, the area will be closed to the public." The public currently accesses MEG year-round and enjoys a free, beautiful, undeveloped mountain experience on scarce public lands and SB's private lands via prescriptive easements. The conditional use request asks to eliminate that access and experience for the public and therefore is not compatible with the public interest.

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The conditional use DOES NOT meet the standard of 7-20 C.4. "It shall be **compatible with the public interest** and with the characteristics of the surrounding area.

The conditional use IS NOT compatible with the public interest. The conditional use would violate SB's SKI AREA TERM SPECIAL USE PERMIT dated December 2005 issued by the Forest Service. Under Terms and Conditions Section I. AUTHORITY AND USE AND TERM AUTHORIZED, Sub Section G. Master Development Plan is states: "G. Master Development Plan. In consideration of the privileges authorized by this permit, the holder agrees to prepare and submit changes in the Master Development Plan encompassing the entire winter sports resort presently envisioned for development in connection with the National Forest lands authorized by this permit, and in a form acceptable to the Forest Service. Additional construction beyond maintenance of existing improvements shall not be authorized until this plan has been amended. Planning should encompass all the area authorized for use by this permit. The accepted Master Development Plan shall become a part of this permit. For planning purposes, a capacity for the ski area in people-at-one time shall be established in the Master Development Plan and appropriate National Environmental Policy Act (NEPA) document. The overall development shall not exceed that capacity without further environmental analysis documentation through the appropriate NEPA process." On page 25 of SB's proposal it states, "Based on the 1999 EIS, the Forest Service established 6,817 as the authorized capacity of Snowbird's special use permit area,.....The resort's CCC (comfortable carrying capacity) is currently 6,040 and the 2016 Project is projected to add 1,090 to that, for a total of 7,130, or 313 visitors over the 6,817 supported by the 1999 EIS transportation analysis." SB would be in noncompliance with the terms of the permit and subject to "suspension or revocation of the permit in whole or part for noncompliance with the terms of this permit". The conditional use would expand the overall development to exceed the authorized capacity without further environmental analysis documentation through the appropriate NEPA process and this is NOT legal or compatible with public interest. SB must complete the appropriate NEPA process before requesting to expand their overall development or SB will be in violation of their permit.

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The conditional use IS NOT compatible with the characteristics of the surrounding area. The area is adjacent to the Twin Peaks (the highest peaks in the central Wasatch range) and the White Pine Wilderness area. The proposed chairlift, zipline, and warming hut are merely yards away from the wilderness area. The surrounding land is some of the most pristine in the Central Wasatch range. The gondola and lift towers and the noise of ziplines and mechanization are visible from much of the Timpanogos and Box Elder wilderness areas and many spots along the scenic Alpine Loop road as well as many hiking and recreation areas in the canyon. According to the current AFC Vision Survey, the #1 reason people visit AF Canyon is for the NATURAL SCENIC LANDSCAPE (62%). People are coming to the canyon to escape the urban commercialization and this project would degrade from that objective and IS NOT compatible with the characteristics of the surrounding area.

The conditional use DOES NOT meet the standard of 7-20 C.4. "It shall be compatible with the public interest and with **the characteristics of the surrounding area.**

The conditional use IS NOT compatible with the characteristics of the surrounding area. On page 15 of the SB Application in Section 4.5 Description of the Environment, SB states, "...Aside from these resorts (Alta and Snowbird), the project area and its surroundings are largely undeveloped." This is true. There is no sign of a ski resort or ski lifts when one is in MEG. Ski lifts and 75' towers are NOT Compatible with the current characteristic of MEG. The conditional use would change the surrounding area drastically.

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The conditional use DOES NOT meet the standard of 7-20 C.6. "It shall comply with all of the terms and requirements of Chapter 3 and 5. It DOES NOT comply with Chapter 3-46: D. 2. **An applicant for a conditional use permit for the accessory ski lifts and associated mountain resort facilities shall submit a drawn-to-scale site plan of the subject property....which shall contain: 2. The location of any existing structures, roads, utilities and other uses of the land.**"

Snowbird has not produced an acceptable drawn-to-scale site plan that includes the public roads, ski run locations, soil disturbances, new maintenance and access roads, tower locations in the area and where their lifts will be compared to those public roads. The public, other private land owners in the area, and Board of Adjustment have a right to see an accurate map showing the entire site plan and not bits and pieces that make it hard to understand the plan.

The conditional use DOES NOT meet the standard of 7-20 C.6. "It shall comply with all of the terms and requirements of Chapter 3 and 5. It DOES NOT comply with Chapter 3-46: H.2. **Both the land on which the development will be located, and the land on which the ski resort to which the proposed development is appurtenant is located, must be in the same ownership.**

SB has admitted that it filed a proposal for conditional use knowing that SB didn't meet this requirement. SB MUST PROVE that it owns all of the land on which the development is proposed to be located before the Board of Adjustment can consider its proposal. The public, other private land owners in the area, and the Board of Adjustment have a right and obligation to verify that ownership.

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1. There is only one lift to take the public out of the bottom of MEG. At least two lifts should be available (like there is in MB) to address the risks associated with avalanches, rock fall, and other natural hazards - as well as electrical outages or equipment breakdown.
2. The proposed warming hut at the bottom of MEG does not have the capacity to hold the 1,090 or more additional skiers the 2016 Project is projected to add. Public safety will be degraded when an avalanche or other natural hazards close the lift. People could die before they can be returned to the base area.
3. SB has not provided adequate evidence there is enough snowcat capacity to shuttle 1,090 or more stranded skiers the great distance to Hidden Peak in a safe time period in an emergency situation. Public safety will be degraded when an avalanche or other natural hazards close the lift. People could die before they can be safely returned to the base area.
4. On page 14 in Section 3.4 of SB's proposal it states, "In the broader view, managing remote terrain and facilities in a safe and effective way is not new. Many mountain resorts include areas distant from their central base facilities, and MOST (emphasis added) have succeeded in integrating such operations into the overall resort." SB admits that not ALL such cases have been successful so the public should not be exposed to that risk. MEG is such a great distance from the rest of the resort that SB plans to close the MEG lifts at 2:30 each day - a full hour before they close the MB lifts and 90 minutes before the lifts closer to the base.
5. On page 25 of SB's proposal it states, "Based on the 1999 EIS, the Forest Service established 6,817 as the authorized capacity of Snowbird's special use permit area,.....The resort's CCC (comfortable carrying capacity) is currently 6,040 and the 2016 Project is projected to add 1,090 to that, for a total of 7,130, or 313 visitors over the 6,817 supported by the 1999 EIS transportation analysis. Until SB completes another Environmental Impact Study that provides adequate evidence the facilities are adequate enough for a safe design, they have not provided adequate evidence the facilities will have a safe design.

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As stated above in SB's SKI AREA TERM SPECIAL USE PERMIT dated December 2005 issued by the Forest Service. "The overall development shall not exceed that capacity without further environmental analysis documentation through the appropriate NEPA process." On page 25 of SB's proposal it states, "Based on the 1999 EIS, the Forest Service established 6,817 as the authorized capacity of Snowbird's special use permit area,.....The resort's CCC (comfortable carrying capacity) is currently 6,040 and the 2016 Project is projected to add 1,090 to that, for a total of 7,130, or 313 visitors over the 6,817 supported by the 1999 EIS transportation analysis." SB would be in noncompliance with the terms of the permit and subject to "suspension or revocation of the permit in whole or part for noncompliance with the terms of this permit". The conditional use would expand the overall development to exceed the authorized capacity without further environmental analysis documentation through the appropriate NEPA process. **The Board of Adjustment must require an appropriate NEPA process before considering approval to find that adequate parking (which may include off-site parking with transit access), patron access, and other public facilities exist for the increase in utilization of the ski resort to which the subject accessory ski lift area will be appurtenant. A study by a paid consultant for SB is not adequate.**

The conditional use DOES NOT meet the standard of 7-20 C.6. "It shall comply with all of the terms and requirements of Chapter 3 and 5. It DOES NOT comply with Chapter 5-5: CE-1 CRITICAL ENVIRONMENTAL ZONE A. DECLARATION OF LEGISLATIVE INTENT 4. **To preserve the aesthetic appearance and prevent the degradation of the mountain environment.**

The conditional use IS NOT compatible with the characteristics of the surrounding area. On page 15 of the SB Application in Section 4.5 Description of the Environment, SB states, "...Aside from these resorts (Alta and Snowbird), the project area and its surroundings are largely undeveloped." This is true. There is no sign of a ski resort or ski lifts when one is in MEG. Ski lifts and 75' towers are NOT Compatible with the current characteristic of MEG. The conditional use would change the surrounding area drastically.

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The conditional use will not preserve the aesthetic appearance and prevent the degradation of the mountain environment. Chapter 5-5 G HEIGHT REQUIREMENTS states that "The maximum permissible height of any structure shall be forty (40) feet as determined by the currently adopted building construction codes of Utah County or by any future edition of these codes that may be adopted. SB has requested an exception to build 75 foot ski lift towers. This is nearly 2X the standard to preserve the aesthetic appearance and prevent the degradation of the mountain environment. Exception 2 does not apply because ski lift towers are occupied each time a chairlift with people on it contact the lift tower. This happens thousands of times a day to thousands of people. There is a ladder on each tower for people to ascend and descend when necessary.