

variance in violation of the prohibition against self-imposition. See Arkules, 151 Ariz. at 440.

The applicant is prohibited against self-imposition burden, in this case the city has conspired with the applicant to create a fake burden to help the applicant in order to grant the variance. SEE EMAIL FROM DIANA TO CITY STAFF TELLING THEM TO BE QUIET AND NOT CONTACT APPLICANT.

The applicant is attempting to circumvent the requirement for a burden that would allow them the area variance. The applicant is grasping at straws for a way to allow the area variance to be granted, I.E. the alleyway that the City of Tempe Solid Waste Services must safely navigate. The applicant is claiming that there is not substantial room for the garbage trucks to navigate the alleyways, but Solid Waste Services cited in writing that the alleyway is large enough for their trucks and essential duties.

Between the years of 1978-1994 The City of Tempe did the exact opposite of putting a burden on the applicants land by giving the applicant land via a city abandonment.

Adjacent neighbors who raise young children have stated in writing the parking variance will have negative affect on character of their neighborhood.

Publicly Recorded Deed Restrictions can "speak" for the character of the North Tempe Subdivision neighborhood and the Board of Adjustment should consider them when they are presented.

Applicant had more land available for purchase from two different parties of abutting land to have sufficient land for parking. One parcel is currently zoned commercial by BOTH Tempe and the Deed Restricted North Tempe Subdivision and has been publicly listed for sale.

Jeremy Arkules
[REDACTED]
Tempe, AZ 85281

Exempt B3

QUIT CLAIM DEED

For consideration of Ten Dollars, and other valuable consideration, receipt of which is hereby acknowledged,

ALEX VICTOR & ASSOCIATES, LLC, an Arizona Limited Liability Company does hereby quit-claim to JEREMY ARKULES all right, title and interest in the following real property situated in Maricopa County AZ .

LOT 3, NORTH TEMPE, according to the plat of record in the office of the County recorder of Maricopa County, Arizona in Book 38 of Maps, Page 50. APN 132-12-003 commonly known as 915 E Weber Dr, Tempe, AZ

Dated this November 11, 2019 ALEX VICTOR & ASSOCIATES, LLC by

David Arkules

David Arkules

Stacey Arkules

Stacey Arkules

This instrument acknowledged before me on November 11, 2019

My commission will expire: *Jan. 16, 2023*



Kaminski, Diana

From: David Arkules <arkules@yahoo.com>
Sent: Monday, November 11, 2019 8:23 PM
To: Kaminski, Diana; Levesque, Ryan; Weaver, Chad
Subject: CONTINUATION REQUEST FOR PARKING VARIANCE Please ☐ stop the rush ! 24hr Del Taco Dr Thru SE Corner Scottsdale Rd and Weber Dr

PLEASE MAKE THIS EMAIL PART OF THE STAFF REPORT.

Diana- I owe you a partial apology as I now found an application with both parties names on it. I was lied to and misled by some of the applicants and their agents who claimed they were not related to each other on this Del Taco project. SHAME ON ME FOR BELIEVING THEM. So forgive me but I am still trying to play catchup on a freight train runaway project and I can not imagine what other citizens do.

I still am very disturbed by your comment in city communications warning staff <<The property owner to the North is watching>>. Why would you have to warn staff about anything if this is truly a public process that allows participation? Why would you answer me "NO" when I asked you if any variances were requested when you were actively working on a variance item in city communications?

I still need my public records request fulfilled that is now over 20 days old as I did not receive any attachments on the communications and they are necessary for objecting to the parking variance. This and the fact the applicant rep Darin Sender violated the Tempe Neighborhood Meeting Ordinance 6-402 2F by deleting issues and discussion in the neighborhood meeting required to be provided 15 days prior to Board of Adjustment meeting should clearly be reasons for a continuance until a proper meeting neighborhood meeting can be held.

----- Forwarded Message -----

From: David Arkules <arkules@yahoo.com>
To: Kaminski, Diana <diana_kaminski@tempe.gov>; Ryan Levesque <ryan_levesque@tempe.gov>
Sent: Sunday, November 10, 2019, 01:25:50 AM MST
Subject: CONTINUATION REQUEST FOR PARKING VARIANCE Please ☐ stop the rush ! 24hr Del Taco Dr Thru SE Corner Scottsdale Rd and Weber Dr

Dear Ryan Levesque, City of Tempe, **Deputy Director of Planning** and
Diana Kaminski, City of Tempe, **Senior Planner**

Unfortunately Diana Kaminski's summary below is not correct and I ask that you make this email part of your summary report and exhibits and again **I ask that you recommend a continuance** for this parking variance. **Diana Kaminski is wrong and the applicant has NOT been in process for two years.** Your applicant two years ago was ONETEN REI <http://www.onetenrei.com/about-us/> and the current applicant is CAI Investments <http://www.caicap.com/>

Further, I just determined tonight that you did not fulfill my records request since you failed to include email attachments that are needed to support my objection. YOUR ACTIONS ARE NOT ALLOWING PUBLIC PARTICIPATION but PUBLIC OBSERVATION.

Lastly I asked you if the 24 hour Del Taco Drive Thru applicant was asking for any VARIANCE REQUEST AND YOU TOLD ME "NO" when City Records indicate you were actively working with the applicant on a Variance Request. This should be alarming to Ryan Levesque and the City of Tempe.

On Wednesday, November 6, 2019, 10:41:19 AM MST, Kaminski, Diana <diana_kaminski@tempe.gov> wrote:

Mr. Arkules,

I am sorry to hear about your family member's condition, this is very unfortunate.

The applicant has been in process for two years; this has not been rushed.

The applicant has made a complete application, conducted the required neighborhood meeting at least 30 days before any public hearing, and has an advertised public hearing scheduled for the November 20th Board of Adjustment hearing.

Your public records request was submitted on 10/21, with additional requests added after the initial request. Staff worked hard to provide you this information in a timely manner, and by 11/1 you were provided with all of the information available, including completion of all subsequent requests for information. Our typical turn around is 20 business days, however, knowing your need to receive the information to provide public comment prior to the first hearing on 11/20, we worked in earnest to meet your requests.

As a member of the public, you are welcome to provide your comments in writing which we can include in the staff report if received by November 12th as we discussed on the phone to get information in the report attachments.

We can also forward the Board any additional public input received prior to the meeting. The earlier the better. You may also attend the hearing or have a representative there on your behalf.

It is up to the Board of Adjustment, not city staff, whether to act on a continuance or decision on the matter.

Thank you,

Diana Kaminski

From: [David Arkules](#)
To: [Kaminski, Diana](#); [Levesque, Ryan](#); [Abrahamson, Steve](#)
Subject: 24 HR DEL TACO REQUEST FOR CONTINUANCE/ YOU FAILED TO INCLUDE THIS OBJECTION IN YOUR REPORT TO BOARD OF ADJUSTMENT. WHAT ELSE IS MISSING?
Date: Monday, November 18, 2019 10:26:16 AM
Attachments: [Del Taco SE Corner of Scottsdale Rd and Weber Dr.pdf](#)

PLEASE MAKE THIS EMAIL AND NEW EMAIL from Alfonso Larriva AVAILABLE TO BOARD OF ADJUSTMENT

In your rush to help applicant push this thru Parking Variance you failed to include the below Oct 13 Objection to the proposed Del Taco in your staff summary report.

Furthermore in another email to me in response to my request to stop and slow down this parking variance request and REQUEST FOR CONTINUANCE you defended your position saying the project was not rushed. This directly contradicts a email from Tempe City Engineer Tony Wikliff that states <<... **This job is also trying to get rushed through our channels.>>**

I now wonder what other objections are missing. The Board of Adjustment should continue this matter.

CITY STAFF RUSH ACTIONS ARE ALLOWING PUBLIC OBSERVATION AND NOT PUBLIC PARTICIPATION.

----- Forwarded Message -----

From: Alfonso Larriva™ <alfonso.larriva@atlascapitalllc.com>
To: diana_kaminski@tempe.gov <diana_kaminski@tempe.gov>
Cc: davidarkules@yahoo.com <davidarkules@yahoo.com>
Sent: Sunday, October 13, 2019, 07:05:49 PM MST
Subject: Proposed Del Taco @ Scottsdale Road & Weber

Diana,

Atlas Residential, LLC is the owner [REDACTED]

Putting a Del Taco one door down from our residential parcel would damage the value of the parcel greatly due to the noise, pollution and wafting smell of trash coming from the Del Taco. Plus they are open until all hours of the night which would create noise and light well past 10:00pm when normal people go to sleep. Some of their locations are even open 24 hours, and many are open past Midnight.

This is not a reasonable or good use for a business of this nature so close to residential. I would feel fine with a sit down restaurant without alcohol on the space that closes at 10:00pm, but this Del Taco with a drive through and near continuous operation would be a huge problem for us.

Sincerely,

Alfonso Larriva, Managing Member

Atlas Residential, LLC

From: David Arkules [mailto:arkules@yahoo.com]
Sent: Sunday, October 13, 2019 6:57 PM
To: Alfonso Larriva™ <alfonso.larriva@atlascapitalllc.com>
Subject: Weber Dr Fast food and roof at 1209 s wilson tempe az

Hi Alfonso - I have attached the flyer for the drive thru on the SE corner of Weber Dr and Scottsdale Rd.

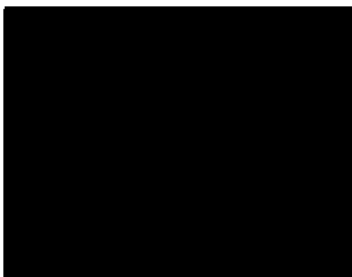
The planner for the city of tempe is:

diana_kaminski@tempe.gov

My email:

davidarkules@yahoo.com

David Arkules



OBJECTION TO TWENTY FOUR HOUR
DEL TACO DRIVE THRU RESTAURANT
PARKING VARIANCE AND USE PERMIT

Friday, November 15, 2019
TEMPE BOARD OF ADJUSTMENT
31 E 5th St Tempe AZ 85281

+ DRC
ADD

Dear Tempe Board of Adjustment; +DRC

I just purchased my home, [REDACTED]
[REDACTED] and object to any parking variance or
use permit for a drive thru. Cars will park
on my street at all hours and I will have
increased traffic. A twenty four hour
restaurant does not belong in my North
Tempe Subdivision and will be a negative
change to the character of my
neighborhood. The increased parking and
traffic will cause a danger to my young
children.

ADD

Aied Abdelmalak
[REDACTED]

Kaminski, Diana

From: David Arkules <davidarkules@yahoo.com>
Sent: Monday, November 18, 2019 2:49 AM
To: Kaminski, Diana; Levesque, Ryan; Abrahamson, Steve
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