

**BOARD OF COMMISSIONERS
HALL COUNTY, GEORGIA**

**THE ARK AT LAKE LANIER, LLC'S STATEMENT OF CONSTITUTIONAL
CONSIDERATIONS AND OBJECTIONS**

**IN RE: APPLICATION OF THE ARK AT LAKE LANIER, LLC
 FOR A SPECIAL USE FOR AN EVENT FACILITY
 6250 and 6255 OLD DAWSONVILLE ROAD
 HALL COUNTY TAX PARCELS 10035 000006A and 10035 000008B
 COMMISSION DISTRICT 2**

COMES NOW THE ARK AT LAKE LANIER, LLC (hereinafter referred to as "ARK" or "Applicant"), with a principal office address of 106 Spring Street, SW, Unit 304, Gainesville, Georgia 30501-3761, and files this its Statement of Constitutional Considerations and Objections pertaining to ARK's Application for a Special Use for an Event Facility at 6250 and 6255 Old Dawsonville Road, Hall County Tax Parcels 10035 000006A and 10035 000008B (the "Application").

ARK asserts the following Constitutional considerations for consideration by the Board of Commissioners of Hall County, Georgia (the "Commission").

ARK asserts the following Constitutional objections should the Commission deny the Application or refuse to approve the Application.

-1-

Denial of the Application will deny ARK due process of law as provided in Article I, Section I, Paragraph I of the State of Georgia Constitution.

-2-

Denial of the Application will damage ARK's property rights and interests without just and adequate compensation in violation of Article I, Section I, Paragraph I of the State of Georgia Constitution and Article I, Section III, Paragraph I of the State of Georgia Constitution.

-3-

Denial of the Application will deny ARK equal protection under the law as provided in Article I, Section I, Paragraph II of the State of Georgia Constitution which guarantees that "Protection to person and property is the paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws."

-4-

Denial of the Application will deny ARK due process and equal protection under the law as provided in the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States of America and would constitute a taking of ARK's property rights and interests without just and adequate compensation.

-5-

Denial of the application will result in a violation of the Federal Civil Rights Act of 1871, as codified in 42 U.S.C. § 1983, by denying ARK due process, equal protection, and just and adequate compensation and would discriminate against ARK compared to other owners of similarly-situated property.

-6-

Denial of the Application will constitute an inverse condemnation in violation of O.C.G.A. § 22-1-5 and will result in a taking of ARK's property without just and adequate compensation.

-7-

Denial of the Application will result in a significant detriment to ARK and is not substantially related to the public health, safety, morality, or welfare of Hall County, Georgia, or the community which surrounds the subject property.

-8-

The portions of the Hall County Unified Development Code, facially and as applied to the Property, which restrict the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than that proposed by the Applicant are unconstitutional in that they would destroy the Applicant's property rights and interests without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

-9-

The application of the Hall County Unified Development Code, facially and as applied to the Property, which restricts the Property to any uses, conditions, land use designations,

development standards, or to any zoning district other than in accordance with the Application as proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; Article I, Section I, Paragraph I, and Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its property while not substantially advancing legitimate state interests.

-10-

A denial of this Application would be unconstitutional under the Takings Clause of the Fifth Amendment to the Constitution of the United States and the Just Compensation Clause of Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983. A refusal by the Hall County Board of Commissioners to approve the special use as requested would constitute a taking of the Applicant's property.

-11-

A denial of this Application would constitute an arbitrary and capricious act by the Hall County Board of Commissioners without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. A refusal to grant the special use request would lack objective justification and would result only from neighborhood opposition, which would constitute an unlawful delegation of the zoning power to non-legislative bodies in violation of the Georgia Constitution, Article IX, Section II, Paragraph 4.

-12-

A refusal by the Hall County Board of Commissioners to approve this Application for the Property in accordance with the criteria as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of the similarly-situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such

different conditions would have the effect of further restricting Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

-13-

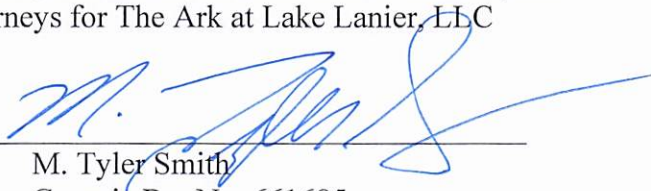
Applicant reserves all due process rights granted it under O.C.G.A. 36-66-5.1. *et. seq.*, to petition the courts for review of a local government's exercise of zoning, administrative, or quasi-judicial powers, as set forth in those code sections and statutes.

WHEREFORE, ARK asserts these Constitutional Considerations and Objections to the Board of Commissioners of Hall County, Georgia and requests that the Commission approve the Application.

This 26th day of August, 2026.

SMITH, GILLIAM, WILLIAMS & MILES, P.A.
Attorneys for The Ark at Lake Lanier, LLC

By: _____


M. Tyler Smith
Georgia Bar No. 661685
Daniel M. Dupree
Georgia Bar No. 349494

P.O. Box 1098
Gainesville, Georgia 30503
(770) 536-3381
tsmith@sgwmfirm.com
ddupree@sgwmfirm.com