

**BOARD OF COMMISSIONERS
HALL COUNTY, GEORGIA**

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

**IN RE: APPLICATION OF THE ARK AT LAKE LANIER, LLC
 FOR A VARIANCE TO SECTION 8.1
 6250 and 6255 OLD DAWSONVILLE ROAD
 HALL COUNTY TAX PARCELS 10035 000006A and 10035 000008B
 COMMISSION DISTRICT 2**

COME NOW THE ARK AT LAKE LANIER, LLC (hereinafter referred to as “ARK” or “Applicant”), Applicant and owner of Hall County Tax Parcel 10035 000006A (“Parcel 6A” and one of the “Properties”), and IPH INVESTMENTS, LLC (hereinafter referred to as “IPH”), owner of Hall County Tax Parcel 10035 000008B (“Parcel 8B” and the other of the “Properties”), each with a principal office address of 106 Spring Street, SW, Unit 304, Gainesville, Georgia 30501-3761 and files this their Statement of Constitutional Considerations and Objections pertaining to ARK’s Application for a Variance to Section 8.1 of the Hall County Unified Development Code to allow off-site parking on Parcel 8B (the “Application”).

ARK and IPH assert the following Constitutional considerations for consideration by the Board of Commissioners of Hall County, Georgia (the “Commission”).

ARK and IPH assert the following Constitutional objections should the Commission deny the Application or refuse to approve the Application.

-1-

Denial of the Application will deny ARK and IPH 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 and IPH’s respective 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.

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Denial of the Application will deny ARK and IPH 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."

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Denial of the Application will deny ARK and IPH 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 and IPH's respective property rights and interests without just and adequate compensation.

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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 and IHP due process, equal protection, and just and adequate compensation and would discriminate against ARK and IPH 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 and IHP's respective property without just and adequate compensation.

-7-

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

-8-

The portions of the Hall County Unified Development Code, facially and as applied to the Properties, respectively, which restrict the Properties, respectively, 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 and IPH'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.

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The application of the Hall County Unified Development Code, facially and as applied to the Properties, respectively, which restricts the Properties, respectively, 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 and IPH's respective property rights and interests 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.

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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 variance as requested would constitute a taking of the Applicant's and IPH's respective property rights and interests.

-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 variance 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.

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A refusal by the Hall County Board of Commissioners to approve this Application for the Properties 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 IPH, respectively, and owners of similarly-situated properties 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 Properties 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 and IPH's utilization of their respective Properties, would also constitute an arbitrary, capricious and discriminatory act in zoning the Properties to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

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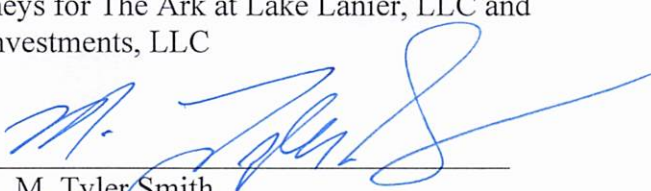
Applicant and IPH, respectively, reserve all due process rights granted it under O.C.G.A. 36-66-5.1. *et. seq.*, to petition the courts for review of a local government's exercise of zoning, administrative, or quasi-judicial powers, as set forth in those code sections and statutes.

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

This 26TH day of August, 2026.

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By: _____


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