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A Professional Corporation
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Attorneys for Plaintiff, Shan and Dylan, LLC
James E. Stahl, Esq. New Jersey Attorney No. 281971972

SHAN and DYLAN, LLC, a New
Jersey Limited Liability Company,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY
DOCKET NO. L- 553-18

Plaintiff,

vs.

Civil Action

NEW BRUNSWICK PLANNING
BOARD and HIGHVIEW
HOSPITALITY NB, LLC,

Defendants,

AMENDED COMPLAINT IN LIEU
OF PREROGATIVE WRIT

The Plaintiff, Shan and Dylan, LLC with offices at 555 Old Bridge Turnpike, in the City of East Brunswick, County of Middlesex and State of New Jersey 08816, by way of Complaint in Lieu of Prerogative Writ, says:

1. The Defendant, Highview Hospitality NB, LLC ("Defendant Hospitality") is the owner of premises located at 19 State Route 18, a/k/a Lot 6.06, Block 710.02, in the City of New Brunswick, County of Middlesex and State of New Jersey (the "Hospitality Premises").

2. The defendant Planning Board of the City of New Brunswick ("Planning Board") is a local government entity pursuant to the New Jersey Municipal Land Use Law.
3. The Hospitality Premises are located in the City of New Brunswick, C-5 Zone.
4. Defendant Hospitality proposes to demolish an existing vacated restaurant and replace it with a four (4) story hotel on the Hospitality Premises.
5. Defendant Hospitality applied for Preliminary and Final Major Site Plan Approval with Bulk Variances to construct a four (4) story hotel structure on Hospitality Premises (the "Application").
6. The approval granted to the Defendant Hospitality by the Planning Board included variances as to minimum lot area, minimum lot width, minimum lot depth, minimum front yard setback as to one side, minimum side yard setback as to both sides, maximum impervious surface coverage, minimum off street parking spaces, free standing sign height and setback and minimum size of loading spaces. (the "Approval")
7. The number and extent of the variances granted to Defendant Hospitality renders the existing C-5 Zone insofar as it relates to the construction of a hotel a nullity.
8. The Application is a totally nonconforming proposal except that it is a permitted use in the C-5 Zone.
9. The Planning Board by granting the Approval ignored its own criteria developed for the C-5 Zone in an effort to permit the construction of a facility which is too intense and too large a development for the Hospitality Premises.
10. The proposed use by Defendant Hospitality represents an intense and unsuitable proposal for the premises which proposal is not sufficiently justified under the Municipal Land Use Law.

11. Defendant Highview in acquiring the Premises and attempting to utilize the same as a hotel, has in fact created a self-inflicted hardship by acquiring for development a property which it contends in its application is of a unique shape and location.

12. The Approval failed to properly consider parking, appropriateness for the use on this property, and positive and negative criteria to support the variances requested.

13. As a result of the Approval by the Planning Board, this action of the Planning Board was arbitrary, capricious and unreasonable.

14. The Resolution granting the Approval was memorialized on or about November 13, 2017.

15. The Notice of Decision was published on December 15, 2017.

16. This action was commenced within the time provided by our 4:69-(3).

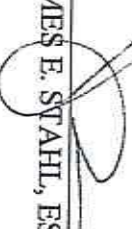
17. The Plaintiff is an interested party pursuant to N.J.S.A. 40:55D-17.

WHEREFORE, Plaintiff demands judgment against the defendants:

(a) declaring the approval dated November 13, 2017 to be void, invalid and of no force or effect;

(b) for such other relief as the court deems adequate and just.

BORRUS, GOLDIN, FOLEY, VIGNUOLO,
HYMAN & STAHL, P.C.
Attorney for Plaintiffs, Shan & Dylan, LLC

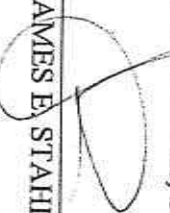

JAMES E. STAHL, ESQ.

Dated: February 1, 2018

CERTIFICATION PER RULE 4:5-1

The undersigned hereby certifies that this matter is not the subject of any other action pending in any court or arbitration proceeding to the best of my knowledge, information and belief, nor is there any other action or arbitration proceeding contemplated.

**BORRUS, GOLDIN, FOLEY, VIGNUOLO,
HYMAN & STAHL, P.C.**
Attorneys for Plaintiffs, Shan and Dylan, LLC

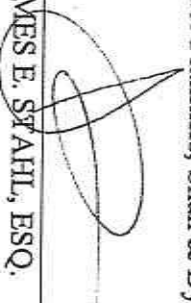
By: 
JAMES E. STAHL, ESQ.

DATED: February 1, 2018

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that James E. Stahl, Esq., is hereby designated as trial counsel in this matter.

**BORRUS, GOLDIN, FOLEY,
VIGNUOLO, HYMAN & STAHL, P.C.**
Attorneys for Plaintiffs, Shan & Dylan, LLC

By: 
JAMES E. STAHL, ESQ.

DATED: February 1, 2018