

May 1, 2024

**VIA FEDEX & EMAIL**

Julie Hargrave  
The Central Pine Barrens Commission Office  
624 Old Riverhead Road (CR 31)  
Westhampton Beach, NY 11978

**RE: Clancy Street Food Court  
Response to Staff Comments; NPV# 97201**

Dear Ms. Hargrave,

Below please find detailed responses to comments and concerns raised in the Staff Report and the April 2024 Central Pine Barrens Commission meeting with regards to the Clancy Street Food Court project. Please add this documentation to the record of Applicants submissions for the file and please circulate this to the Commission members. We believe that this additional detail supports the case for approval of the Core Preservation Area (CPA) Hardship Application for the above referenced project.

**Staff Discussion/Comments from April 17, 2024 Staff Report**

1. *The Core is a sending not receiving area for Pine Barrens Credits (PBCs). The proposal seeks to redeem 1.2 PBCs in the Core. This proposal contradicts the Comprehensive Land Use Plan and the goals and objectives of the Act. The Plan, Section 6.4.2.1 Brookhaven Pine Barrens Credit Program overview, explains the Pine Barrens Credit Program for the Town of Brookhaven is designed to redirect development for residentially zoned lands within the Core Preservation Area to receiving districts throughout the Town.*

*It should be noted that credits are not allowed to be redeemed in the Core since credits represent the development potential from a core parcel intended to be transferred outside of the core.*

*Section 6.5.6 of the Plan Amendments, effective July 2024, states PBCs may not be redeemed in the core or other sending area under this Plan.*

*Furthermore, the Commission's core hardship decision on American Physical Society dated July 21, 2010 found that the redemption of PBCs on a project site in the Core is contrary to the spirit and intent of the Act and the Plan. It further indicated that Section 6.5.3.2.3 of the Plan that states no receiving area may include land in the Core.*

*The applicant was directed through the Health Department to purchase land for preservation in the same watershed. The applicant for the project should consult with the Health Department in this matter. Other options may include reducing the number of restaurant seats to conform.*

The Applicant has agreed to reduce the number of restaurant seats so the purchase of a Pine Barrens credit is not required to accommodate the reduced sanitary flow. A revised plan has been provided (see **Attachment A**). Per the revised plan, the number of proposed restaurant seats has been reduced from 54 indoor seats and 32 seasonal outdoor seats to 22 indoor seats and 26 outdoor seasonal seats.

Per the Suffolk County Department of Health Services Wastewater Flow Multipliers (2009), the revised proposed development requires a total sanitary flow (excluding kitchen/gray load) of 350 gallons per day (GPD). The updated on-site sanitary system would comprise of a 400-GPD capacity I/A OWTS for treatment of sanitary waste, a 1,500-gallon capacity septic tank for treatment of kitchen/gray load, a 1,5000-gallon grease trap, and two 12-foot-depth leaching pools. The site is situated in Groundwater Management Zone III, whereby 300 GPD per acre is allowable (350.1 GPD for the 1.167-acre subject property). This reduction of seats allows the project to meet the allowable 350.1 gallons per day (GPD) sanitary flow maximum; therefore, a pine barrens credit is no longer required.

2. *Applicant will need to obtain approvals and permits as required from New York State Department of Environmental Conservation, New York State Department of Transportation, Suffolk County Department of Public Works, and Suffolk County Department of Health Services and Brookhaven Town.*

The Applicant will submit all required applications for approval/permit and will furnish approvals/permits to CPBC upon receipt, prior to implementation of the proposed project.

3. *NY State listed species and habitats:*
  - a. *Please coordinate the application and consult with NYSDEC Region 1 to determine if habitat present to support the State and Federally listed Endangered species, Northern Long-eared Bat. Currently no tree removal is allowed from March to November of any given year. Clearing limitations during certain times of the year may be applied. Avoid clearing during protection windows for the Northern long eared bat.*
  - b. *Confirm no other endangered species are present on the Project Site including State listed amphibians.*
  - c. *Contact Natural Heritage Program to confirm the presence of rare and listed species. Contact Natural Heritage Program to confirm the presence of rare and listed species.*

No Take – No Permit Necessary determinations will be obtained for Northern Long-Eared Bat (NLEB) and Tiger Salamander. Consultation with the National Heritage Program has been initiated. Determinations will be furnished to CPBC upon receipt, and in advance of implementation of the proposed project.

4. *Protect the character of the Central Pine Barrens*
  - a. *Protect existing large trees and other natural vegetation to maintain the character of the region and to provide a visual and noise buffer and screening from adjacent roads including for the outdoor seating area.*
  - b. *Signage should be minimal and consistent with the pine barrens landscape.*
  - c. *No signage variances should be granted.*
  - d. *Dark skies lighting fixtures should be in the site plan.*

See updated architectural plans and site plans provided (**Attachment B**). The proposed project protects existing larger trees by locating development in the area of historical disturbance, and provides buffering from roadways.

Signage will be minimal and consistent with the pine barrens landscape (see signage detail in **Attachment B** and rendering depicting signage in **Attachment C**). No signage variances will be sought. A design of the signage is representative in the architectural design plan and has been submitted for review. The project will meet Town Code for dark sky compliance (see Plan Sheet LIG-1 in **Attachment A**).

5. *Consider placing the two ingress/egress points as close as possible to the property boundary, on the CR 111 side and on the service roadside, to reduce fragmentation of the natural area and to create the largest block of natural area, to avoid collisions and provide sight distances for vehicle turning movements.*

The ingress/egress points were placed based on NYSDOT requirements and input as well as discussions with Suffolk County Department of Public Works (DPW). Specifically, the South Service Road entrance was indicated by NYSDOT. The C.R. 111 entrance was indicated by DPW based on a concern related to the adjacent Starbucks entrance.

6. *Further comments and recommendations may be necessary after the public hearing or receipt of additional information.*

All comments received to date have been addressed herein. Any further comments and recommendations will be addressed as necessary.

Please add this to the file and distribute, and please feel free to contact me should you have any questions.

Very Truly Yours,

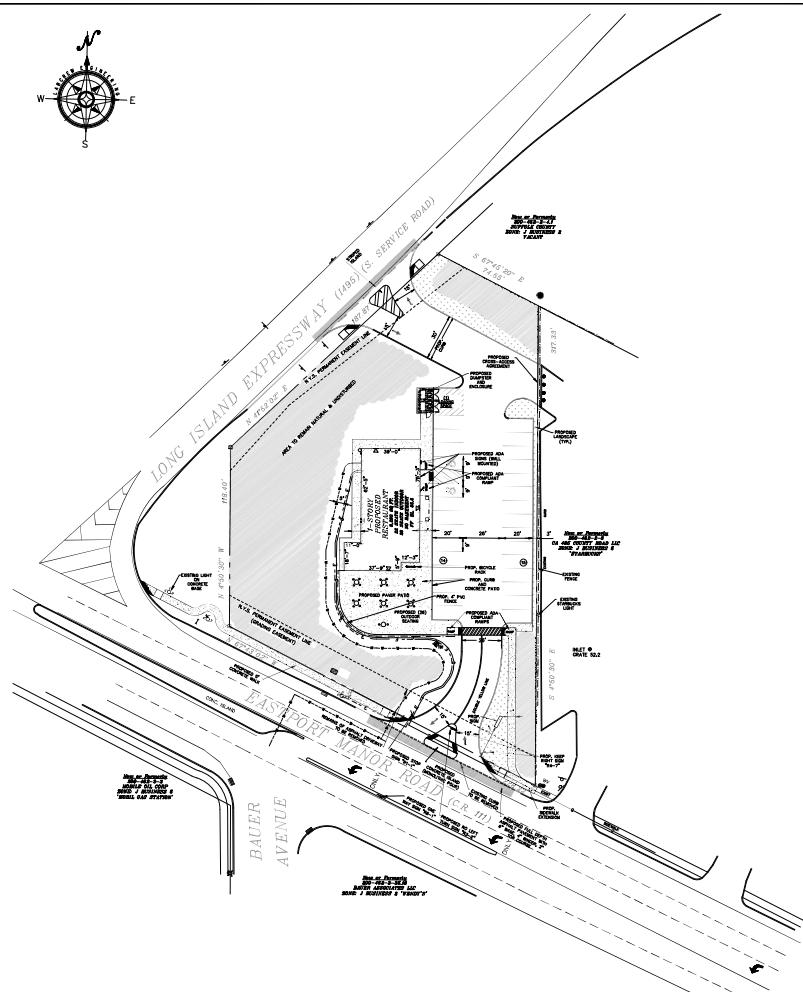
**Nelson, Pope & Voorhis, LLC**



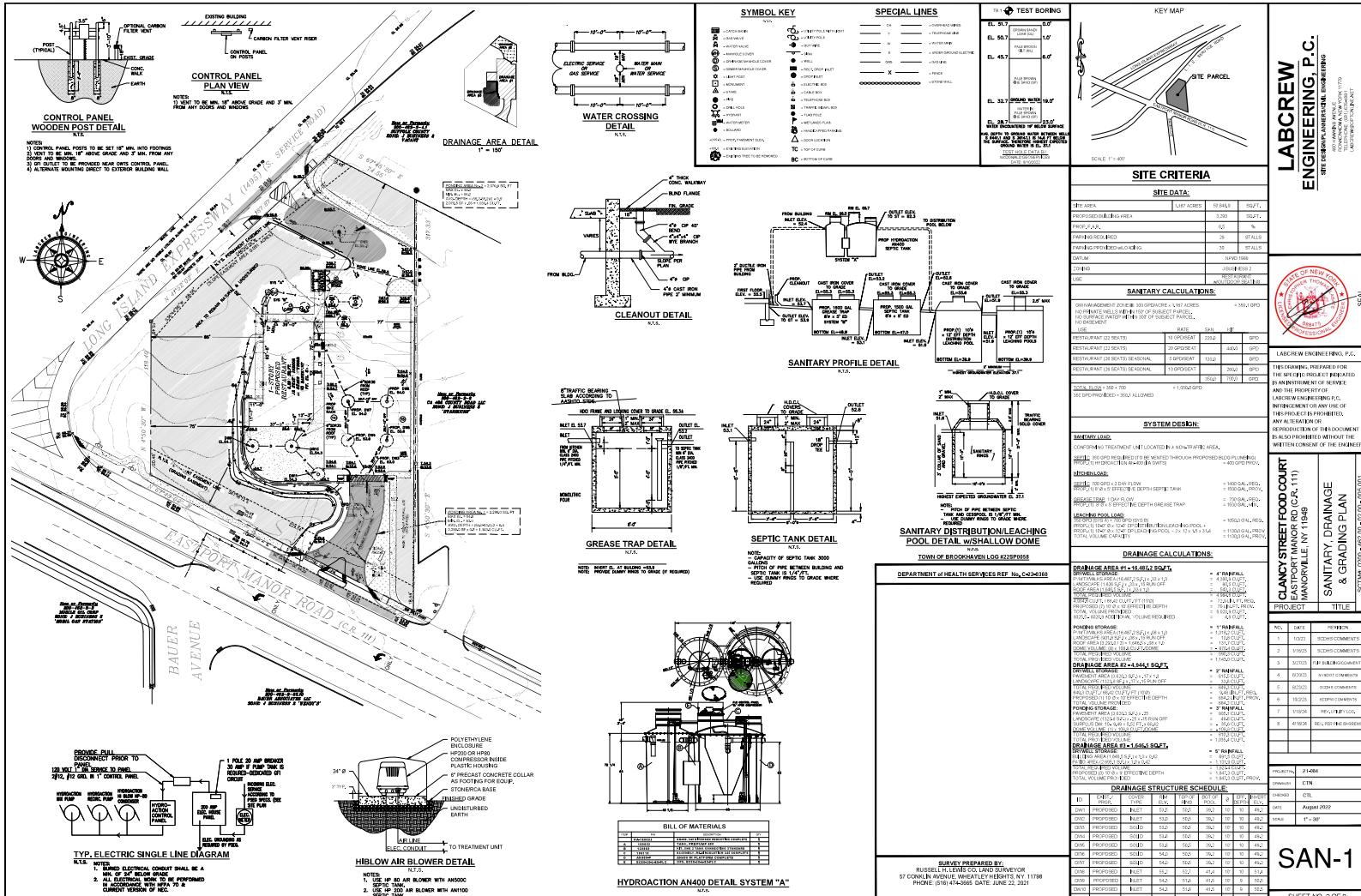
Brianna Sadoski  
Project Manager/Senior Environmental Planner

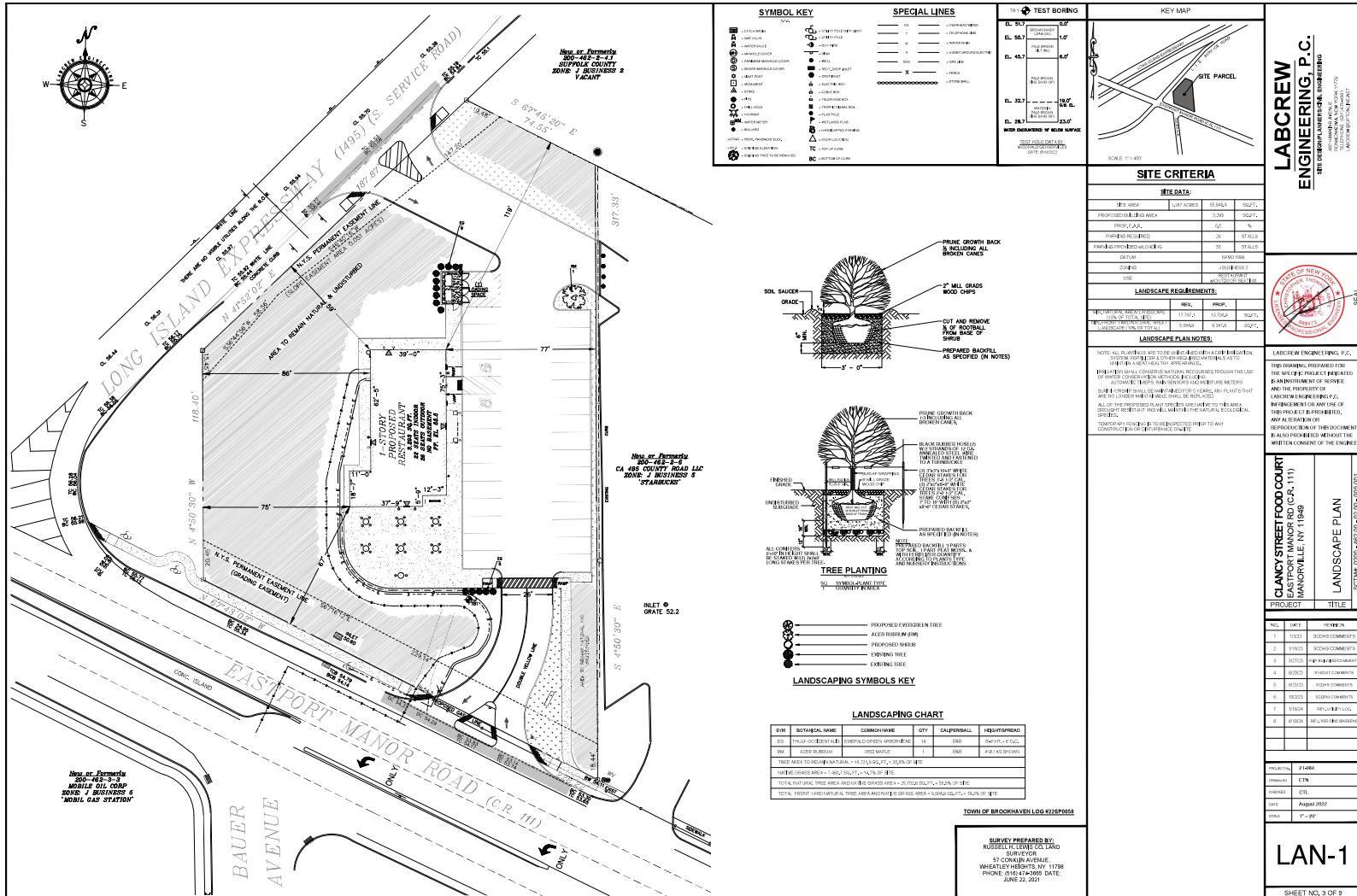
cc: Judy Jakobsen (CPBJPPC) (via email only)  
John Milazzo (CPBJPPC) (via email only)  
David Kepner (Applicant) (via email only)  
Yuliya Viola, Esq. (Applicant Counsel) (via email only)  
Chic Voorhis (NPV) (via email only)

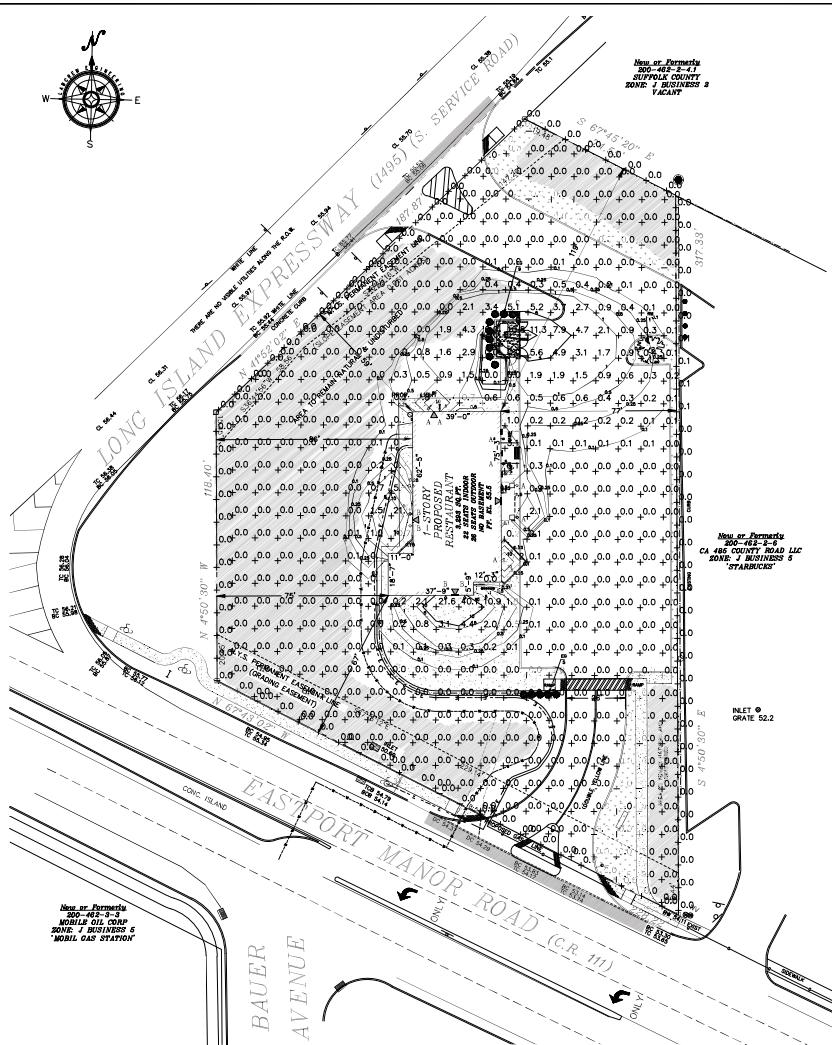
**Attachment A**  
**Revised Site Plans**  
**April 18, 2024**

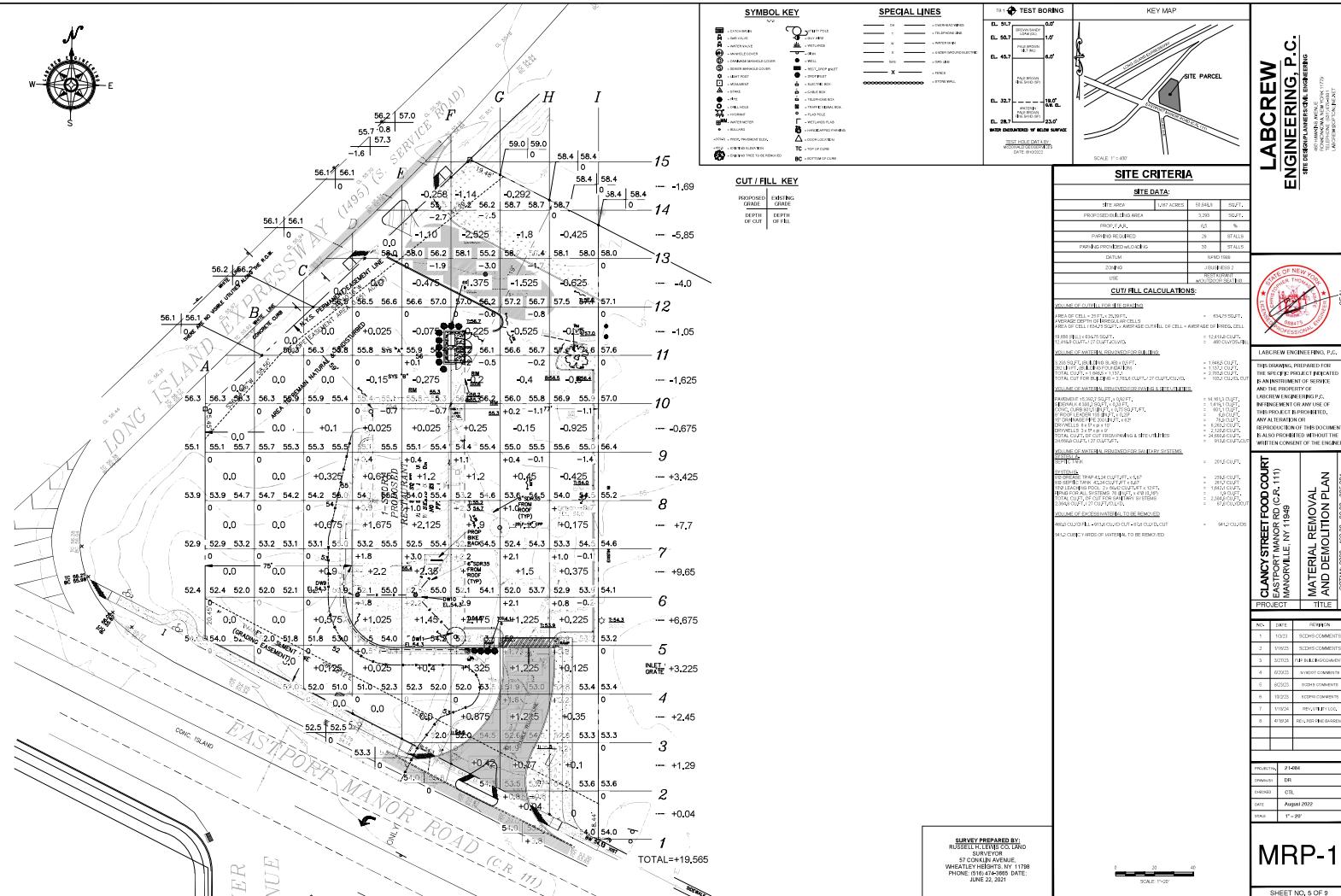


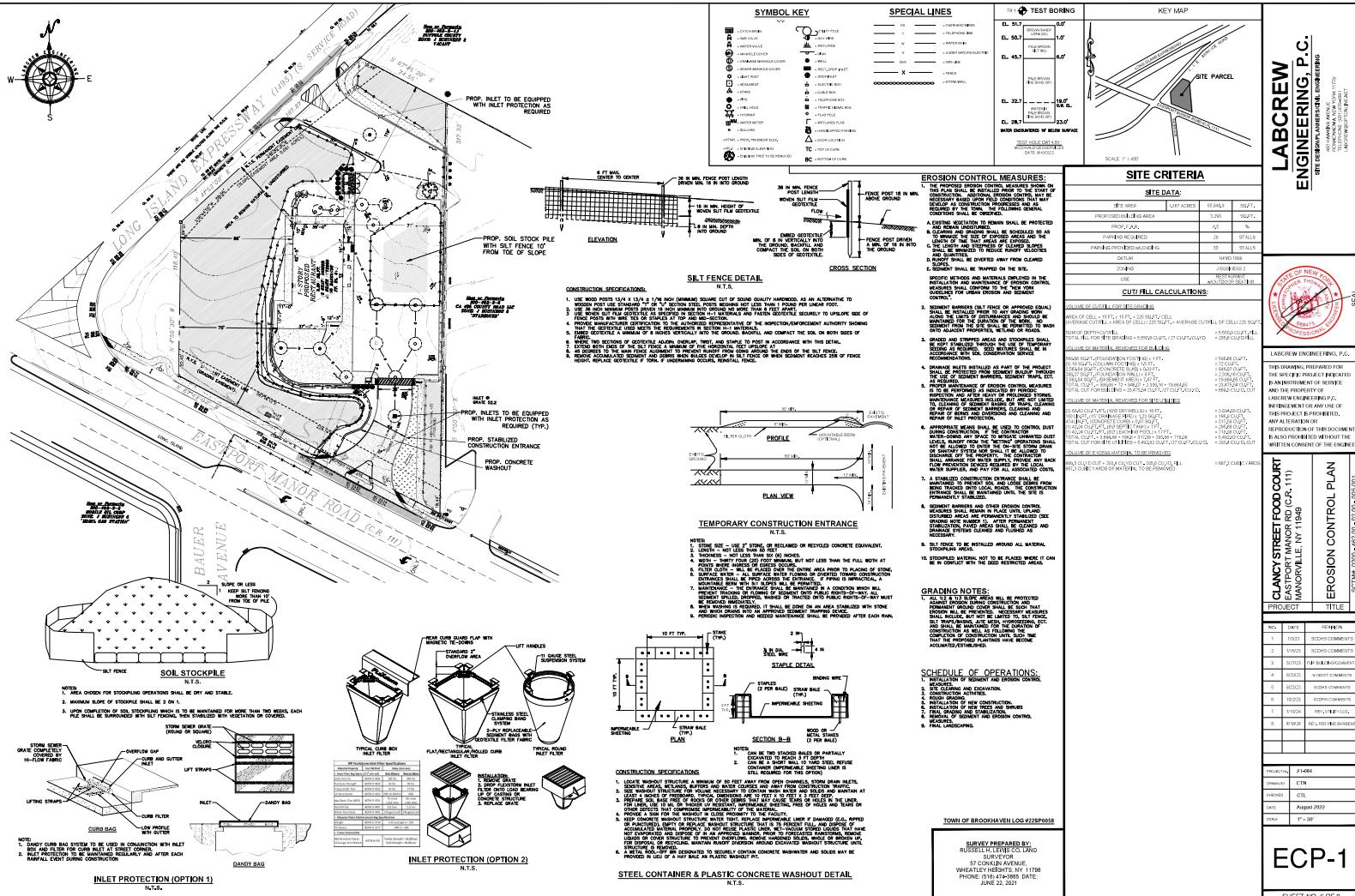
AL-1

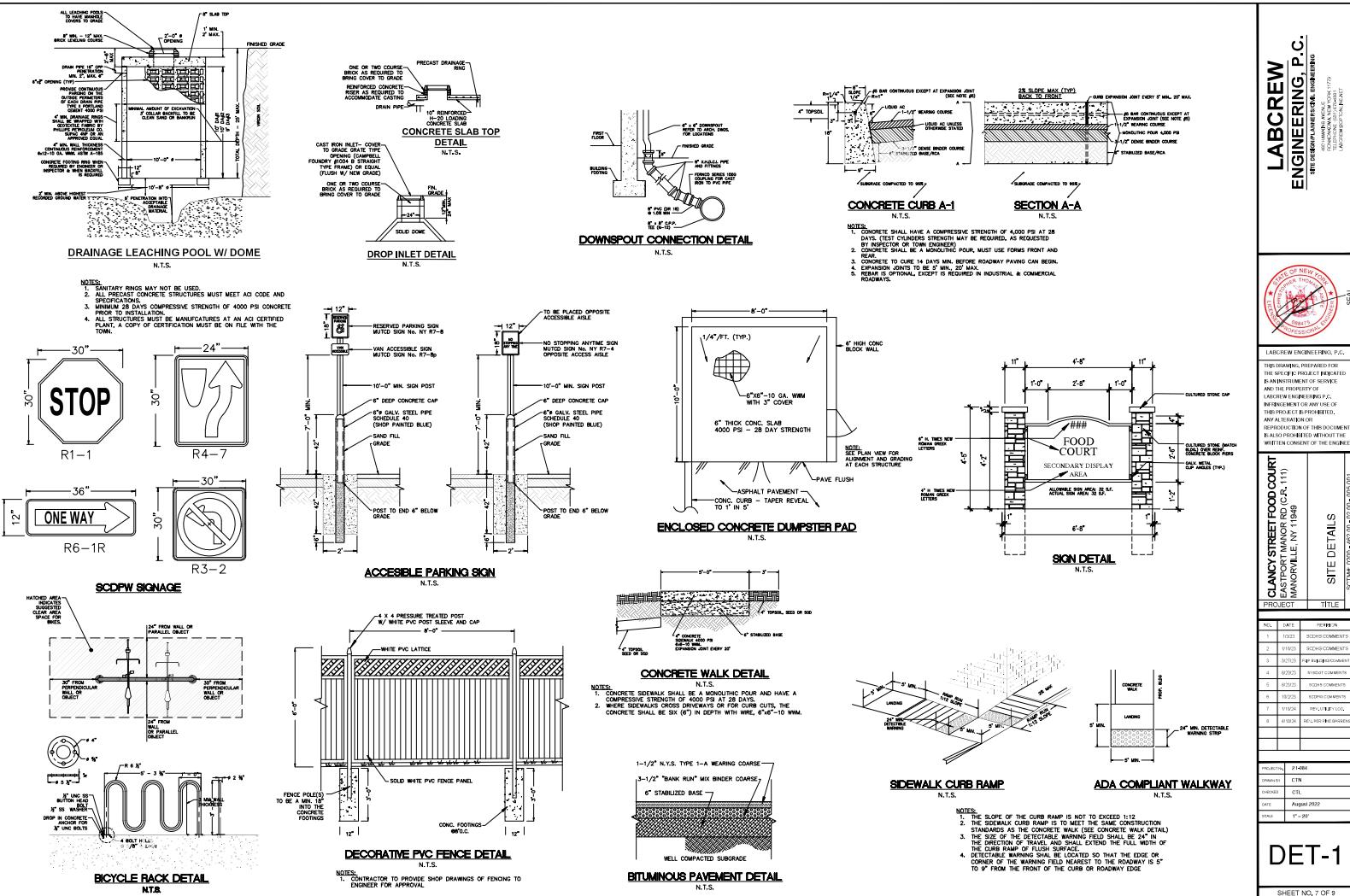




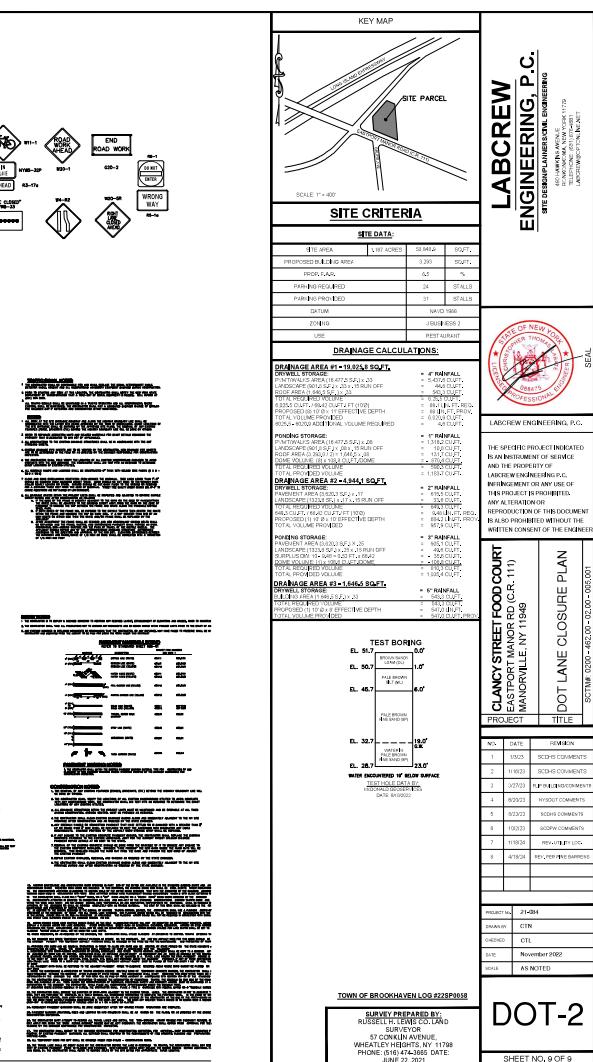
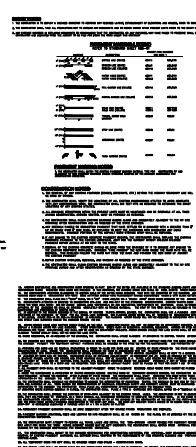
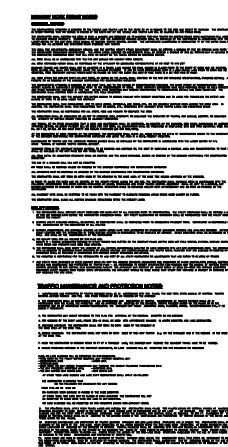
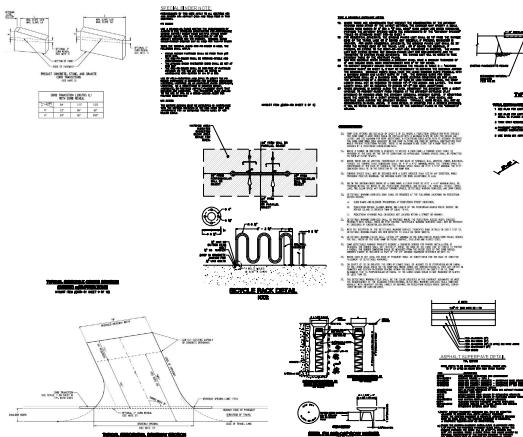
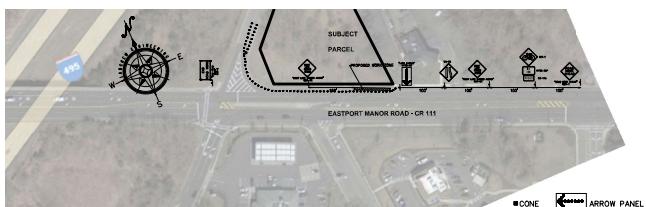
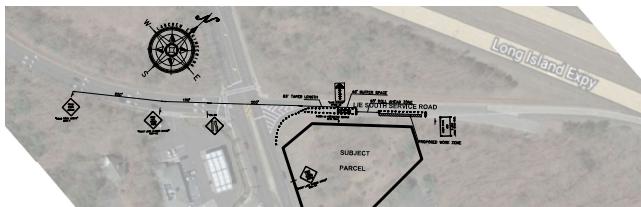






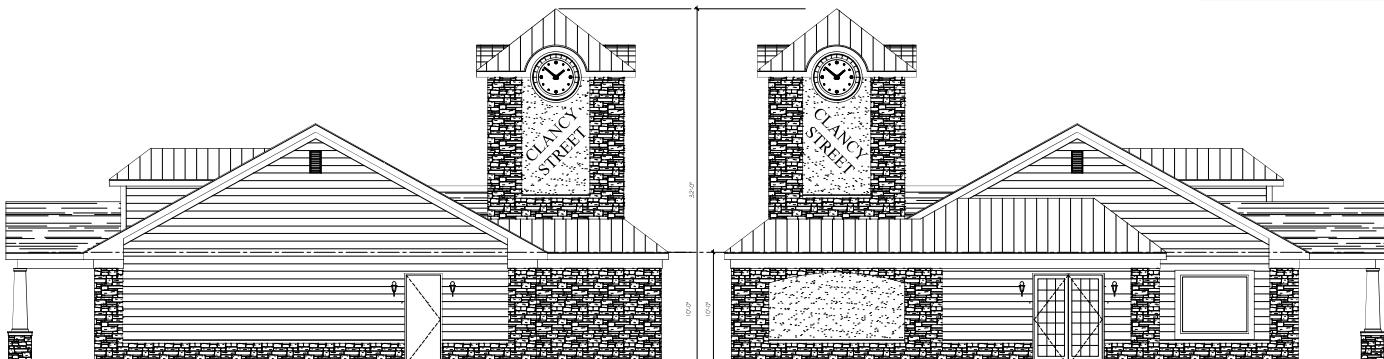
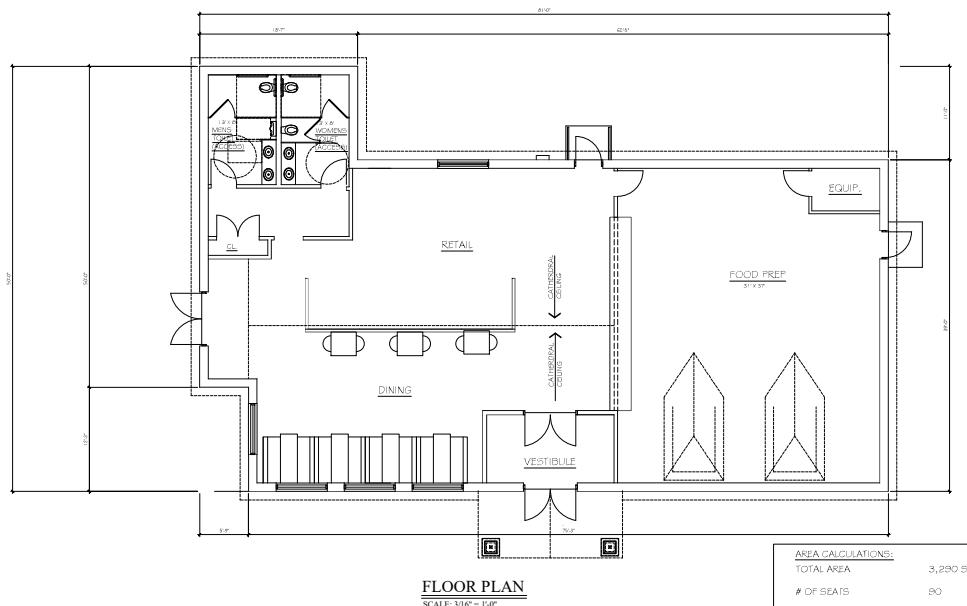






**Attachment B**  
Architectural Plans





FOR REVIEW: 4.24.24  
FOR REVIEW: 4.20.23  
FOR REVIEW: 8.4.22  
FOR REVIEW: 8.1.22  
FOR REVIEW: 6.21.22  
FOR REVIEW: 6.2.22

**DESIGN TECH**  
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**CLANCY STREET FOOD COURT**  
TOWN OF BROOKHAVEN  
MANORVILLE, NEW YORK

revise:

date: -  
proj. #: 22.24

drawn by: dk  
chckd by: DK

sheet no.:

**A-1**

**Attachment C**  
Renderings







