

GREEN INFRASTRUCTURE  
PERMIT NO. GIP2020-01

4578046

REGISTER OF DEEDS  
WAUKESHA COUNTY, WI  
RECORDED ON

April 22, 2021 02:41 PM  
James R Behrend  
Register of Deeds

5 PGS  
TOTAL FEE : \$30.00  
TRANS FEE : \$0.00

Book Page -



Recording Data

Return to:

Village of Menomonee Falls  
**Engineering and Development Dept.**  
W156 N8480 Pilgrim Road  
Menomonee Falls, WI 53051

C&D Real Estate Holdings LLC

Tax Key No. MNFV 0143.999.011

Lot 3 of Certified Survey Map No. 5819

DUE 30/5 MNFV



*Village of Menomonee Falls  
W156 N8480 Pilgrim Road  
Menomonee Falls, WI 53051-3140  
Telephone: (262) 532-4200*

## GREEN INFRASTRUCTURE PERMIT NO. GIP2020-01

Village of Menomonee Falls

Property Owner: C&D Real Estate Holdings LLC

Green Infrastructure Application No. GI-A2020-01

Tax Key: MNFV 0143.999.011

Parcel: Lot 3 of Certified Survey Map No. 5819 as recorded by deed in the land records of Waukesha County, Volume 47, Pages 217-221, Document No. 1533798, being a part of the Southeast ¼ of the Northwest ¼ and Northeast ¼ of the Southwest ¼ of Section 36, Town 8 North, Range 20 East, in the Village of Menomonee Falls, Waukesha County, Wisconsin.

The Village of Menomonee Falls reviewed Green Infrastructure Application GI-A2020-01 for compliance with Village of Menomonee Fall requirements.

Under Village of Menomonee Falls Ordinance Chapter 38, Article V, the Village of Menomonee Falls hereby grants approval for a GREEN INFRASTRUCTURE PERMIT with the requirements set forth in Section I, Section II, and Section III under terms and conditions of this permit.

This permit does not relieve the property owner from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, judgment or decree.

This Permit shall be recorded with the Register of Deeds, Waukesha County, Wisconsin, and shall constitute a covenant running with the land, and shall be binding on the Property Owner, their successors or assigns.

### TERMS AND CONDITIONS:

#### Section I: General Requirements

1. The Property Owner shall develop the Property pursuant to a Site Plan approved by the Village, which is included in the Green Infrastructure Plan with a final revision date of June 29, 2020.
2. The Property Owner shall provide all Green Infrastructure (Bioswales, Rain Gardens, Rain Barrels, Porous Pavement, Native Landscaping, Trees, Constructed Wetlands, Green Roofs, or Cisterns) as required in the Green Infrastructure Plan and pursuant to the Site Plan approved by the Village.
3. Upon completion of the project, the Property Owner has thirty (30) days to submit an inspection report to the Village as proof of compliance on the Village approved Inspection Report form. The inspection report will be used by the Village to determine if the Green Infrastructure was constructed according to the approved Green Infrastructure Plan. The Green Infrastructure will be accepted only after the Village approves the inspection report.
4. The Property Owner hereby grants permission to the Village, its authorized agents and employees, to enter upon the Property and to inspect the Green Infrastructure whenever the Village deems necessary.

5. This Permit imposes no liability of any kind whatsoever on the Village. The Property Owner agrees to hold harmless the Village, its board members, employees, agents, and officers from any costs, damages, loss, claim, suit, liability or award which may arise, come, be brought or incurred or assessed because of the existence of, any action or failure to act with respect to the Green Infrastructure on the Property or because of any adverse effect upon any person or property related or alleged to be related to the Green Infrastructure from any liability if the Green Infrastructure fails to operate properly. The Village shall have the right to defend any such claim and the Property Owner shall reimburse the Village for any and all cost and/or expenses, including but not limited to attorney's fees, which the Village may incur as a result of such claims.

## Section II: Inspection, Testing and Maintenance

1. The Property Owner shall adequately maintain the Green Infrastructure. Adequate maintenance is defined as good working condition so that these facilities are performing their design functions.
  - A. The Property Owner shall perform inspection, testing and maintenance on the porous pavement biannually. Inspection and maintenance shall be completed each spring between April 15<sup>th</sup> and May 15<sup>th</sup>, and each fall between October 15<sup>th</sup> and November 15<sup>th</sup>.
  - B. The Property Owner shall hire a licensed professional engineer with working knowledge of porous pavement to complete the biannual inspections and testing.
  - C. Biannual inspection, testing and maintenance of the porous pavement shall include but not be limited to the following:
    - a) Vacuuming with a street sweeper and power washing
    - b) Inspecting the filter/storage layer underdrain system
    - c) Inspecting and rating the porous pavement conditions
    - d) Remedies and corrective actions for any defects and/or failed testing identified on the inspection report
  - D. Permeability testing per ASTM C1701 shall be completed each spring, between April 15<sup>th</sup> and May 15<sup>th</sup>. The porous pavement sections shall have permeability tests taken every 1,800 square feet of total porous pavement area. The permeability tests shall be distributed so that at least one test is taken at each porous pavement parking section.
  - E. The Property Owner shall submit a Village approved inspection report as proof of compliance with the required maintenance. The inspection report form shall be used to determine the condition of the facilities. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facility and shall include, but not limited to the following: pavement condition report, permeability rate and locations of tests, sweeping/vacuuming, storage layer/underdrain condition, or any work completed on the porous pavement that will affect the operation of the facilities.
  - F. If damage or distress to the porous pavement is noted that requires replacement, porous pavement shall be used to repair the damaged or distressed area. If the filter/storage layer media requires replacement, it shall be replaced with similar media approved by the Village Engineering Department. If another material other than material approved by the Village Engineering Department is used to repair damaged or distressed porous pavement areas or filter/storage media, the Property Owner will have 30 days from the date of notice from the Village to take appropriate measures to replace the porous pavement areas and/or filter/storage media with suitable approved material.
  - G. If for any reason other than the negligence or other wrongful conduct of the Village, the existing Green Infrastructure facilities are no longer working as intended and the generally accepted maintenance or correction applications are no longer feasible, the Property Owner shall replace the existing Green Infrastructure facilities with new Green Infrastructure facilities approved by the Village.
  - H. In addition to the biannual inspections, the Property Owner must visually inspect the Green Infrastructure Facilities within 3 days after any rainfall event of 5.8 inches or greater during a 24-hour duration to ensure the facilities operated properly.

2. The Property Owner will perform or otherwise be responsible for the maintenance of the Green Infrastructure Facilities as described in the approved Green Infrastructure Plan submitted with application GI-A2020-01 on file at Village Hall. This includes any work necessary to keep the Green Infrastructure Facilities in good working order and making all the necessary repairs and/or improvements to correct damages, both natural and man made; and to resolve any citizen complaints. If deficiencies or damages are noted in the inspection report provided to the Village or if complaints are reported to the Village, the Property Owner has thirty (30) days from the date of the report or complaint to take appropriate measures to correct any deficiencies or damages and respond to citizen complaints.

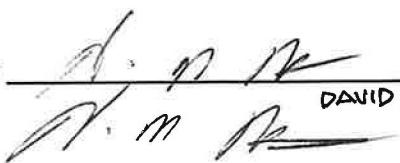
### **Section III: Enforcement**

1. Failure to comply the terms and conditions set forth in the permit shall constitute a violation of Chapter 38, Article V of the Village Code and will result in enforcement under Chapter 38, Sec. 38-213 ENFORCEMENT AND PENALTIES.

By signing below, I accept the TERMS AND CONDITIONS set forth in this permit.

**C&D Real Estate Holdings LLC**

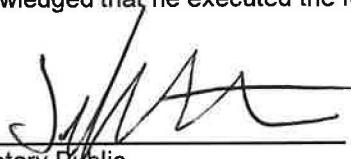
By:

  
DANID HUIBREGTSE

Date: 8-18-20

State of WISCONSIN )  
) ss.  
County of Waukesha )

Personally came before me this 18<sup>th</sup> day of August, 2020, the above named David Huibregtse to me known to be the person(s) who executed the foregoing instrument in his respective official capacity and acknowledged that he executed the foregoing instrument.

  
Notary Public

Waukesha County, State of WISCONSIN

My Commission Expires on 1/28/2023



NOTARY SEAL

**Village of Menomonee Falls**

By:

  
Director of Engineering and Development

Date: 12/1/2020



This instrument was drafted by:  
Thomas M. Hoffman, P.E.  
Director of Engineering and Development  
Village of Menomonee Falls