

NO PRECEDENCE

BUDVAP-2020-15442

APPEAL FEES
MGO \$50.00

APPLICATION FOR APPEAL

City of Madison
Building Inspection Division
126 S Hamilton St
PO Box 2984
Madison, WI 53703
(608) 266-4568

Priority – Double above

Amount Paid \$50.00

Name of Owner Marilyn Jacobsen, Co-Owner	Project Description Appeal of notice of code violations; order to provide adequate storage facilities. Code violations per rules 27.04 (2)(c), 10:18, 28.142 (9)(a)	Agent, architect, or engineering firm
Company (if apt) Jacobsen Apartments LLC		No. & Street
No. & Street 5105 St Cyr Rd	Tenant name (if any)	City, State, Zip Code
City, State, Zip Code Middleton, WI 53562	Building Address 511 W Main St, Madison WI 53703	Phone
Phone 608 235-2225		Name of Contact Person
e-mail marilynojacobson@charter.net		e-mail

1. The rule being appealed reads as follows: (Cite the specific rule number and language. Also, indicate the nonconforming conditions for your project.)

Rules: 27.04(2)(c); 10:18, 28.142(9)(a)

27.04(2)(c) Provide garbage and refuse storage facilities adequate for the number of residents in the building. Owners are in compliance (See Attachment A).

10:18 Collection of Refuse and Recycling of Waste: Owners are in compliance with rules pertaining to 24 hr time limit for containers on street, handling of recycling and in-building storage. (See Attachment B)

2. The rule being appealed cannot be entirely satisfied because:

28.142 (9)(a) - Lot configuration makes it impossible to comply with code specifications for refuse disposal area. (See Attachment C)

3. The following alternatives and supporting information are proposed as a means of providing an equivalent degree of health, safety, and welfare as addressed by the rule:

In order to comply with the city's need to maintain and not exceed current service levels, we propose to guarantee a cap of 4 refuse carts (consistent with 43 yr history of present service levels) and 4 recycling carts (consistent with service levels the city has provided since the inception of recycling services. This will support the safety of our tenants by allowing them to continue using the secure and sanitary in-building facilities, all the while not imposing additional cost to the city.

The 2010 City Council Resolution, 10-362 "Refuse and Recycling collection for multifamily buildings", enacted April 10, 2010, is the basis of the Building Inspection violation orders that we are appealing. It is our intent to pursue an official change to the City's policy and are contacting our Alderperson, Mike Verveer and the Mayor's office to request an enactment of a new resolution by the Common Council.

We request that the Streets Division grant us an indefinite postponement of enforcement of this order until such time as the city council can address the inherent conflicts within the resolution as written.

Note: Please attach any pictures or plans.

VERIFICATION BY OWNER – PETITION IS VALID ONLY IF NOTARIZED AND ACCOMPANIED BY A REVIEW FEE AND ANY REQUIRED POSITION STATEMENTS.

Note: Petitioner must be the owner of the building. Tenants, agents, contractors, attorneys, etc. may not sign the petition unless a Power of Attorney is submitted with the Appeal Application.

Marilyn Jacobsen, being duly sworn, I state as petitioner that I have read the foregoing petition, that I believe it to be true, and I have significant ownership rights in the subject building or project.

Signature of owner 	Subscribed and sworn to before me this date: 10/19/2020
Notary public 	My commission expires: 10/28/2023

ANDRES VEGA
NOTARY PUBLIC
STATE OF WISCONSIN

NOTE: ONLY APPEALS FOR COMMERCIAL CODES ARE REQUIRED TO BE NOTARIZED.

ATTACHMENT

A

27.04 (2) (C): "The owner of every residential building shall be responsible for supplying such building with garbage and refuse storage facilities as required by the Madison General Ordinances (Am. By Ord. 9725, 3-2-89)

My response: OWNERS ARE IN COMPLIANCE

Number of Trash and Recycling Carts: For the past 43 years, 511 West Main Street has put out a maximum of three to four city trash carts per week and three to four recycling carts every other week. The low volume of trash and recycling generated is due to the fact that this building consists primarily of single occupancy units (15 one-bedroom units, three efficiencies, and only one two bedroom unit). As a result, the number of people living in the building at any one time is relatively low; 20 to 24 persons.

Surrounding buildings with fewer units may house many more people and generate far more trash and recycling because they are typically two-and three-bedroom units. Therefore, the number of units at 511 W Main Street is not an accurate measure of the trash and recycling generated; four city trash carts and four recycling carts maximum has always been more than adequate.

ATTACHMENT B

2. 10:18 "Collection Of Refuse and Recycling of Waste"

Section (6): No owner or operator shall allow a rubbish or refuse container to remain on the terrace of the street in front of her/his premises for more than twenty-four (24) hours after the date designated by the Street Superintendent for rubbish collection in the district in which said premises are located. (AM. By Ord 12,319, 5-28-03)

My response: OWNERS ARE IN COMPLIANCE

Trash is collected by Streets every week on Thursday and recycling collected every other week along with trash collection. We have directed our maintenance person to bring the trash and or trash/recycling carts up from the interior trash room on Wed. afternoons to be placed on the terrace in front of the building and to return them to the trash room after the city has emptied them on Thurs. The fact that these carts are rolled up/down steps ensures that they are not filled to overflowing. We supervise this with our web-camera security system to ensure that this schedule is followed consistently.



511 W Main St. Trash and Recycle carts on terrace.

ATTACHMENT

B - 1

10:18 Section (e) 3: Recyclable Waste: All other persons subject to this ordinance as Dane County owned or private landfill users shall facilitate and provide for separation and recycling of the above-listed items in a manner conducive to the recycling of said items. Owners of multifamily dwellings,.....shall place and maintain adequate separate containers in convenient locations for use by tenants, employees customers and guests for the collection of said recyclable items and shall make arrangements for the recycling of such collected items by public or private means, or such material may be disposed of by said owners in any other lawful manner.

My response: OWNERS ARE IN COMPLIANCE.

The ~12 ft by 17 ft designated trash room in the lower level of our building has ample room to store our more than adequate supply of trash and recycling carts. While we only put out a max of 3-4 of each type of carts on designated pick up days, long ago we purchased extra carts to keep in the trash room for tenant moving times when there is need for extra storage as they discard unwanted items and trash. (SEE ATTACHMENT PHOTOS B-2 AND B-3)

Large cardboard boxes: City recycling rules state that *“Boxes that do not fit inside your cart should be flattened and cut down to a 3 ft by 3 ft size, tied in bundles 6 in height or less and placed under the cart lid or in a neat pile next to the collection cart.”* During tenant moving times and now with COVID restrictions and tenants shopping more and more on-line, disposal of cardboard boxes is an ongoing issue. This indoor well lighted trash room provides the space and comfort for our maintenance person to do the necessary work to comply with these guidelines.

Tenant safety: The indoor trash room is sanitary, convenient, and importantly enhances the security and safety of our tenants 24/7. This indoor location is well-lit and monitored by a security camera. In contrast, forcing tenants to take their trash outside into the dark and cold is a potential safety issue.

Tenant Education: A copy of the current recycling information from the city website is included with our orientation packet given to each new tenant. We also post recycling rules of the door of the trash/recycling room and monitor the trash room for compliance.

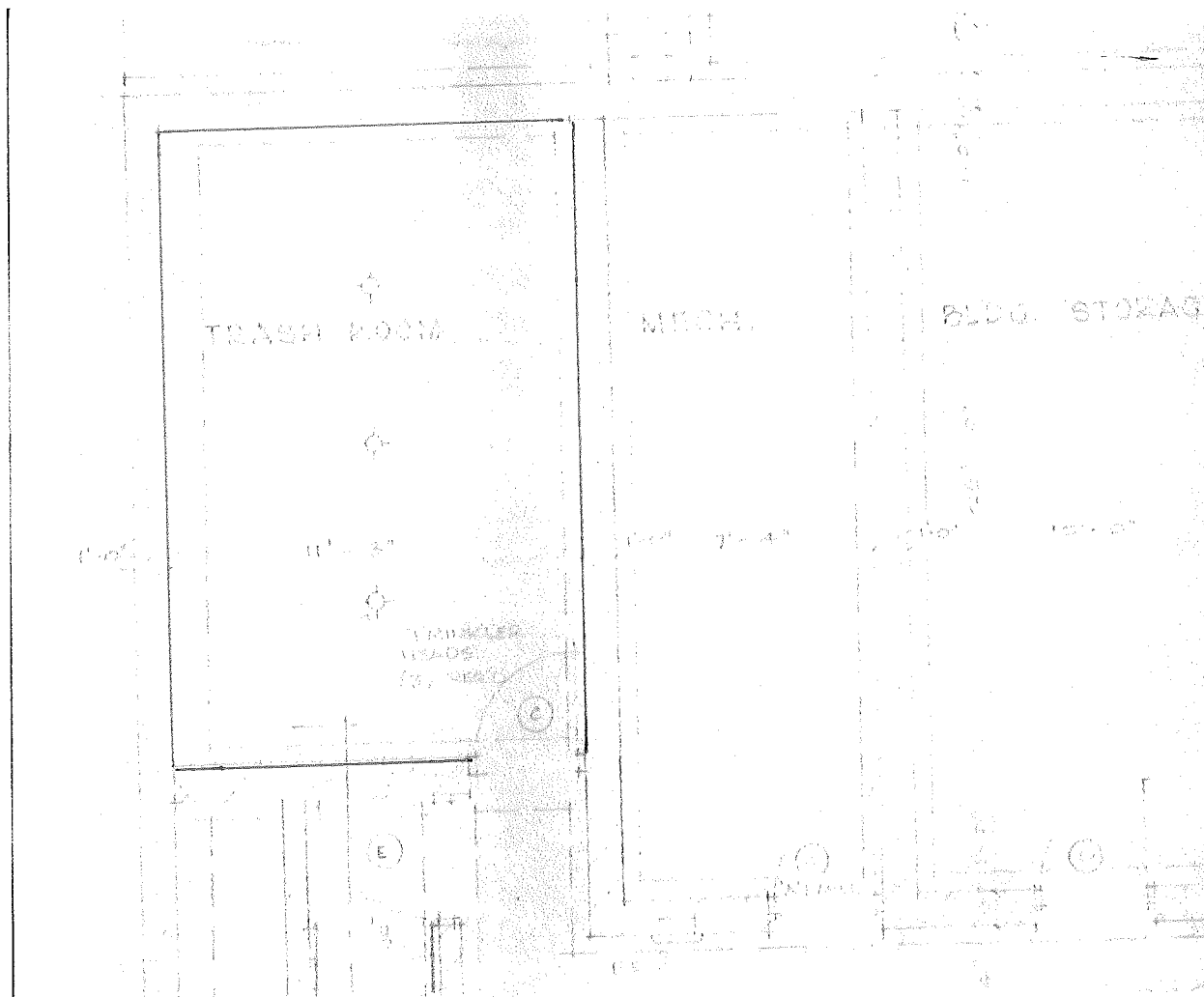
ATTACHMENT

B 2



511 W MAIN ST TRASH ROOM

**ATTACHMENT
B - 3**



511 W MAIN TRASH ROOM PLAN

ATTACHMENT

C

28:142 (9) (2): Screen of Other Site Elements: (a) Refuse Disposal Areas: All developments, except single family and two family developments, shall provide a refuse disposal area. Such area shall be screened on four (4) sides (including a gate for access) by a solid, commercial-grade wood fence, wall, or equivalent material with a minimum height of six (6) feet and not greater than eight (8) feet.

This additional information was provided to Owners relevant to this code and violation notice: "City of Madison Resolution Ref-10-00362 requires the City to provide trash service only to apartment buildings with 8 or fewer units. City trash carts can no longer be used and must be replaced by contracted service. The replacement trash containers may be carts or dumpsters but must be for both refuse and recyclables. If dumpsters are used, then a dumpster enclosure compliant with City Zoning Ordinance 28.142) (a) must be used.

My response: THIS RULE BEING APPEALED CANNOT BE ENTIRELY SATISFIED BECAUSE:

1. LOT CONFIGURATION MAKES IT IMPOSSIBLE TO COMPLY WITH 28: 142 (9) (a)

511 W Main was built in 1973 in full compliance with lot line to lot line zoning, providing for a screened parking lot for a prescribed number of cars in the front and a private fenced back yard for tenant recreation. There is no place to provide a dumpster in the front of the building with screening and gate access per code. Therefore, it is impossible to comply with the code as stated.

(SEE ATTACHMENT C -1) PLAT SURVEY MAP)

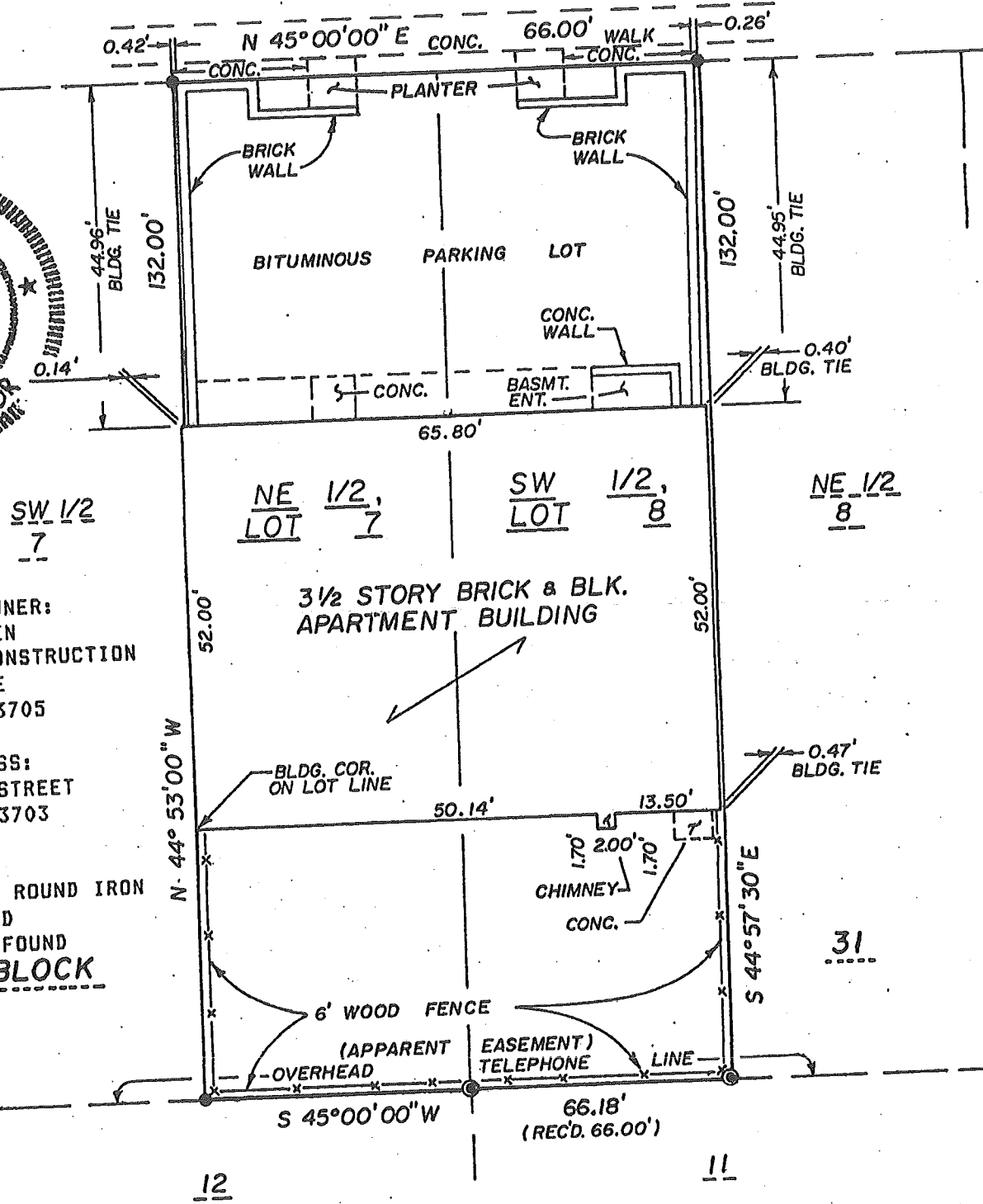
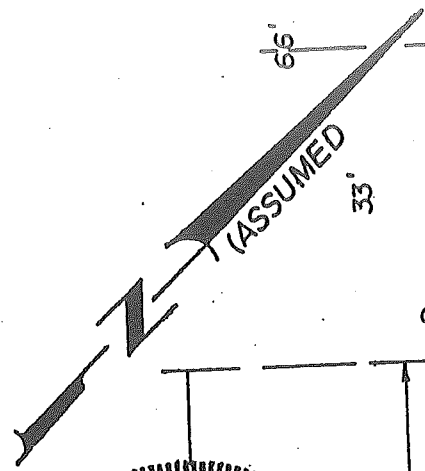
2. PRIVATE CART SERVICE IS NOT AVAILABLE IN THE AREA OF 511 W MAIN ST

In an effort to comply with this order and arrange for private collection services I contacted the 3 companies who provide trash and recycling services in the Madison area: Waste Management, Pellitteri Waste Systems and Advanced Disposal. Each of these companies said they would not be able to provide rolling cart service to this location. With this statement I am not appealing the Streets Division termination of services and removal of the city carts service to 511 W Main. I am stating that in spite of my earnest efforts to comply with this order, I have not found a private company to replace city trash and recycling services.

(SEE ATTACHMENT C-2 & C-3; Responses from waste collection companies)

PLAT OF SURVEY

WEST MAIN STREET



PREPARED FOR OWNER:
 WILLIAM JACOBSEN
 C/O JACOBSEN CONSTRUCTION
 313 PRICE PLACE
 MADISON, WI 53705

PROPERTY ADDRESS:
 511 WEST MAIN STREET
 MADISON, WI 53703

LEGEND
 ● — 3/4" SOLID ROUND IRON STAKE FOUND
 ⊙ — IRON PIPE FOUND
 - - - - - BLOCK

DESCRIPTION: THE NE 1/2 OF LOT 7 AND THE SW 1/2 OF LOT 8, BLOCK 31, ORIGINAL PLAT, CITY OF MADISON, DANE COUNTY, WISCONSIN.
 ALL BEARINGS ARE REFERENCED TO THE SOUTHWESTERLY LINE OF WEST MAIN STREET

Marilyn Jacobsen

From: Sharon Walsvik <Sharon.Walsvik@advanceddisposal.com>
Sent: Thursday, October 08, 2020 1:53 PM
To: marilynojacobsen@charter.net
Subject: SERVICE AT 511 W MAIN ST MADISON, WI 53703

Hi Marilyn

We cannot service residential carts for commercial account and since you have no room for a dumpster we can not service this address. Sorry for the inconvenience. Take care

Sharon A Walsvik | Inside Sales Representative



Advanced Disposal

PO Box 473; 300 Raemisch Road, Waunakee, WI 53597

T: 608-807-3220 | F: 608-849-7608 | E: sharon.walsvik@advanceddisposal.com

Connect with us: AdvancedDisposal.com [Facebook](#) [Youtube](#)



Clean & Green: Please consider the environment before printing this e-mail

We do offer temporary roll off containers, please contact me for pricing.

Marilyn Jacobsen

From: Tim Bolhuis <Timb@pellitteri.com>
Sent: Monday, October 12, 2020 9:02 AM
To: marilynojacobsen@charter.net
Subject: Curbside Trash and Recycling at 511 W. Main Street

Thanks for your call, Marilyn.

Unfortunately, we do not have any curbside trash and recycling routes in the area to accommodate your 511 W Main Street apartments.

Tim Bolhuis
Account Executive
Cell: (608) 695-4296
Direct: (608) 257-6232 ext. 317
Main: (608) 257-4285
www.pellitteri.com

A Tradition of Service Since 1939

Pellitteri
WASTE SYSTEMS

ATTACHMENT C-2
Emails – Advanced Disposal
Pellitteri

Marilyn Jacobsen

From: Vaughn, Catalina <CVaughn2@wm.com>
Sent: Wednesday, September 30, 2020 2:22 PM
To: marilynojacobsen@charter.net
Subject: Waste Management follow up 511 W Main St Madison WI

Hello Marilyn,

Thank you for contacting Waste Management. I am reviewing your location. It appears that we will not be able to safely place a dumpster on site. I am checking with our operations department to see if we can route totter service for you. This will be very similar to the cans that you currently have.

I will keep you posted

Catalina Vaughn
Environmental Service Specialist
(O) 623-526-0154
(F) 800-661-0829

Waste Management
Cvaughn2@wm.com
www.wm.com

Marilyn Jacobsen

From: Ellefsen, Robert <reliefse@wm.com>
Sent: Tuesday, October 06, 2020 1:59 PM
To: marilynojacobsen@charter.net
Subject: Waste Management of Madison WI

Hi Marilyn,

Thank you for taking a few minutes to speak with me today. Unfortunately, we are unable to offer cart (totes) service in your area. You would have to have a commercial bin. Our smallest bin is a 2 yard bin, that is 6 Ft wide, 3 Ft deep and 3.5 Ft tall. If the city is willing to let you place the bin in the street, then we would love to have you as a customer, but we just don't have the type of truck/route in your area for what you are looking for. Please reach out with any questions, and thank you for your time.

Kind Regards,
-Rob

Rob Ellefsen
Inside Sales Executive
Phoenix Sales Center
reliefse@wm.com

T: 206-415-9671
2550 W. Union Hills Dr.
Phoenix, AZ 85027

ATTACHMENT C-3
Emails – Waste Management

