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August 17, 2026

CITY OF UKIAH CITY COUNCIL
300 Seminary Ave,
Ukiah, CA 95482
cityclerk@cityofukiah.com

RE: APPEAL PURSUANT TO UKIAH CITY CODE SECTION 9266 – DIRECTOR DETERMINATION OF APPROPRIATE USE FOR 814/816 JACKSON AVENUE; BUILDING PERMIT NO. R25-000077

Dear Mayor and Members of the City Council:

On behalf of permit applicant Kerri Vau ("Vau"), this letter constitutes Vau's timely appeal pursuant to Ukiah City Code ("UCC") section 9266 from the August 6, 2026 Determination of Appropriate Use issued by Community Development Director/Zoning Administrator Craig Schlatter ("Determination") concerning the installation of four cargo shipping containers at 814/816 Jackson Avenue, Ukiah, California.

Vau respectfully requests that the City Council reverse the Determination, reinstate Building Permit No. R25-000077, and permit Vau to complete the work previously reviewed and expressly authorized by the City.

I. FACTUAL AND PROCEDURAL BACKGROUND

In early 2025, Vau approached the City concerning the placement of cargo shipping containers on her residential property at 814/816 Jackson Avenue. Vau did not conceal what she intended to install or attempt to obtain a permit under a generalized description such as "storage building." Her application expressly described the proposed work as installation of four ship cargo containers for storage only, each measuring 8 feet by 20 feet.

The Planning Division reviewed the application. Planning Manager Katherine Schaefers specifically determined in her plan-check review that "accessory buildings incidental to

residential use (i.e. storage) are allowed in the R-1 Zone." The Director's Determination itself acknowledges that, because Ms. Schaefers treated the shipping containers as accessory buildings, the Building Division issued the permit.

On April 14, 2025, following the City's review, the City issued Building Permit No. R25-000077. The permit expressly identifies its permit type as:

"Residential Building Permit – Accessory Structure (Non-Dwelling)." (See Permit attached as **EXHIBIT A**)

The same permit expressly describes the authorized work as:

"INSTALL (4) CARGO SHIP CONTAINERS 8'X20' EACH."

Thus, there can be no legitimate contention that the City did not know what it was approving. The City knew both the nature of the structures and their intended use and issued a permit expressly authorizing them.

Vau thereafter relied upon the permit. She transported, placed, leveled, and installed the first cargo container and incurred substantial expenses associated with that installation. When additional time became necessary to complete the permitted project, Vau requested an extension of the permit.

The City granted that request. The permit expiration date was extended through October 14, 2026. (See Extension attached as **EXHIBIT B**)

Thereafter, and while the extended permit remained in effect, Vau continued performing the authorized project and transported and installed a second container. Vau's records reflect approximately $5,930 in expenditures associated with the acquisition, transportation, loading, placement, leveling and installation of the first two containers. (See Vau's Itemized expenses attached as **EXHIBIT C**) Only after these events did the Community Development Director undertake a new "Determination of Appropriate Use" and conclude that the City's prior interpretation and approval had been erroneous.

The August 6, 2026 Determination directs that Building Permit No. R25-000077 be rescinded and that Vau remove the installed container(s). This appeal followed.

II. VAU ACQUIRED VESTED RIGHTS BY MATERIALLY RELYING UPON THE BUILDING PERMIT ISSUED BY THE CITY.

California has long recognized the vested-rights doctrine in the land-use context.

In Avco Community Developers, Inc. v. South Coast Regional Commission (1976) 17 Cal.3d 785, 791, the California Supreme Court stated the governing rule:

Where a property owner performs substantial work and incurs substantial liabilities in good-faith reliance upon a governmental building permit, the owner acquires a vested right to complete the construction authorized by that permit.

Once such rights have vested, the government may not defeat them by subsequently changing the applicable zoning requirements. (Id. at p. 791.) The California Supreme Court has repeatedly reaffirmed this principle. (Russ Building Partnership v. City and County of San Francisco (1988) 44 Cal.3d 839, 846; Pardee Construction Co. v. City of Camarillo (1984) 37 Cal.3d 465, 472-476.) The doctrine is grounded in constitutional protections against deprivation of property without due process of law. (Russ Building Partnership, supra, 44 Cal.3d at p. 846.)

The facts here present precisely the type of governmental reliance that the doctrine protects. Vau did not merely rely upon existing zoning or informal comments by City employees. She:

1. specifically disclosed the proposed cargo containers to the City;
2. provided their number, dimensions, proposed location, photos of the containers, setbacks and intended storage use;
3. obtained Planning Division review;
4. received an actual building permit expressly identifying the project as an "Accessory Structure (Non-Dwelling)";
5. Received express authorization to "INSTALL (4) CARGO SHIP CONTAINERS 8'X20' EACH";
6. transported and installed containers in reliance upon the permit;
7. incurred thousands of dollars in project-specific expenditures; and
8. requested and received a City-approved extension allowing the permitted project to continue through October 14, 2026.

This is not preliminary planning activity. It is actual performance of the precise work authorized by the permit.

Moreover, "substantial" reliance is evaluated in relation to the scope of the project and is not determined solely by the absolute dollar amount spent. In Highland Development Co. v. City of Los Angeles (1985) 170 Cal.App.3d 169, 188, the Court of Appeal recognized that expenditures relatively small in absolute terms may nevertheless constitute substantial reliance where the work is substantial in relation to the construction contemplated and authorized by the particular permit.

Here, two of the four specifically authorized structures have already been transported to the property and installed, representing approximately one-half of the structures authorized by the permit. Vau's reliance is therefore substantial not only financially but also in relation to the physical scope of the permitted project.

III. THE CITY CANNOT CHARACTERIZE ITS OWN INTERPRETATION OF ITS ZONING CODE AS AN "ERROR" MORE THAN A YEAR LATER AND THEREBY DEFEAT VAU'S RELIANCE.

The Determination attempts to avoid the consequences of the City's approval by declaring that Building Permit No. R25-000077 "was issued in error." That conclusion assumes the very proposition that must be established. This is not a case in which the zoning ordinance expressly prohibited shipping containers and a City employee accidentally issued a permit directly contrary to that prohibition. The Ukiah City Code does not state that shipping containers are prohibited in the R-1 district.

Instead, UCC section 9016 expressly lists "Accessory buildings" as an allowed use in the R-1 district. It separately permits "[a]ccessory uses normally incidental to single-family residences." The Code also establishes development standards specifically applicable to nonresidential accessory buildings and accessory structures. Planning Manager Schaefers applied those existing provisions to the particular structure proposed by Vau and concluded that the storage structures constituted accessory buildings incidental to residential use. The City then issued the permit on that basis. The Director's Determination expressly admits this sequence of events.

The issue therefore is not whether a City employee accidentally issued a permit for a use expressly forbidden by the zoning ordinance. The issue is whether, after the City's Planning Division interpreted an existing zoning category, approved a disclosed use under that category, issued a permit, allowed the property owner to rely upon it, and subsequently extended that permit, a different City official may retroactively substitute his interpretation for the prior interpretation and characterize the original approval as void.

IV. THE SHIPPING CONTAINERS REASONABLY FALL WITHIN THE LEGALLY RECOGNIZED DEFINITION OF AN ACCESSORY STRUCTURE.

The City's original classification is also consistent with California building law. The 2022 California Residential Code, section R202, defines an "Accessory Structure" as:

"A structure that is accessory to and incidental to that of the dwelling(s) and that is located on the same lot."

Nothing in that definition requires conventional wood-frame construction, a particular exterior material, or construction from the ground up. The relevant inquiry is the structure's relationship and use relative to the principal residential dwelling. The containers here are located on the same residential property as the principal dwelling and are intended exclusively for storage incidental to that residential use. They are therefore functionally indistinguishable for zoning purposes from a detached storage shed or similar non-inhabitable accessory structure.

Ukiah's own zoning ordinance reinforces this interpretation. UCC section 9016 expressly allows "Accessory buildings." Section 9018 expressly establishes a height limitation for "nonresidential accessory buildings" of twenty feet or the height of the main building, whichever is less. UCC section 9020 likewise establishes five-foot side and rear setbacks applicable to accessory structures.

The containers are approximately eight feet high—far below the twenty-foot height limitation applicable to nonresidential accessory buildings—and the approved plans provide for a five-foot setback.

V. THE DETERMINATION'S ANALOGY BETWEEN THE CONTAINERS AND A FENCE IS LEGALLY AND FACTUALLY UNSOUND.

The Determination concludes that four containers would have the "visual impact" of a fence because they would create a façade approximately eight feet high and eighty feet long. Visual similarity, however, does not transform one type of structure into another. A row of four garden sheds might likewise create a continuous visual barrier. That would not convert the sheds into a "fence" for purposes of the City's zoning ordinance.

A fence's function is to enclose, divide, screen or establish a boundary. These containers have a completely different function: storage. Each is an enclosed three-dimensional structure with interior storage space. Their functional characteristics are therefore much more analogous to storage sheds than fencing.

Indeed, the Determination does not identify any provision of the Ukiah City Code authorizing the Community Development Director to classify an otherwise permissible accessory structure as a "fence" merely because its placement allegedly produces a fence-like visual effect.

The City's seven-foot fence-height limitation therefore does not provide a lawful basis for rescinding a permit issued for accessory storage structures.

VI. THE DETERMINATION IMPROPERLY CREATES A NEW LAND-USE PROHIBITION THROUGH AN AD HOC ADMINISTRATIVE DECISION.

The Determination's reliance upon ordinances adopted by other California cities exposes a fundamental problem with the decision. Those cities adopted actual ordinances specifically regulating shipping containers. Ukiah did not.

For example, the Determination identifies California municipalities that have enacted specific standards governing permanent shipping containers. The existence of those ordinances demonstrates that municipalities know how to regulate shipping containers expressly when they choose to do so. If the City of Ukiah believes permanent shipping containers should henceforth be prohibited, restricted, screened, painted, limited in number, or subjected to discretionary review, the City may consider adopting prospective legislation establishing such standards. What

it should not do is create those standards retroactively through an individualized administrative determination after issuing a permit under the City's existing law.

California law recognizes the important distinction between legislative zoning decisions and administrative implementation of existing zoning laws. When a municipality acts administratively in applying a zoning ordinance, it is bound by the ordinance as written unless and until the ordinance is amended through the proper legislative process. (Johnston v. Board of Supervisors (1947) 31 Cal.2d 66, 74; American Canyon Community United for Responsible Growth v. City of American Canyon (2006) 145 Cal.App.4th 1062.)

The Director may interpret and administer the Code. He cannot effectively amend it by creating a new citywide rule that permanent shipping containers are categorically not accessory structures in the R-1 district when the ordinance itself contains no such prohibition. The proper method of establishing a new rule applicable throughout Ukiah is legislation, adopted prospectively and through the procedures required by law—not an ad hoc administrative reinterpretation applied retroactively to a single property owner who already possesses a building permit.

VII. OTHER CALIFORNIA MUNICIPALITIES EXPRESSLY RECOGNIZE SHIPPING CONTAINERS AS ACCESSORY RESIDENTIAL USES.

The Determination's discussion of other California jurisdictions is also incomplete. Other municipalities do not uniformly regard shipping containers as inherently incompatible with residential use. Rather, some expressly allow them as accessory uses subject to reasonable development standards.

For example, the City of Manteca expressly provides that storage, cargo, or shipping containers may be permitted in residential zoning districts when applicable placement and development requirements are satisfied. Similarly, Jurupa Valley expressly provides for metal shipping containers as an "accessory use" in noncommercial and nonindustrial zones under specified development standards.

These ordinances demonstrate an important point: there is nothing inherent in the physical character of a shipping container that prevents it from functioning as a residential accessory structure. Whether and under what circumstances containers should be regulated is a legislative policy determination. Ukiah had enacted no ordinance specifically prohibiting the structures when Vau's permit was issued.

VIII. THE DETERMINATION'S RELIANCE UPON "CONVENIENCE STORAGE" IS MISPLACED.

The Determination also analogizes Vau's personal residential storage to the Code's definition of "Convenience Storage," which includes facilities such as mini-storage and mini-warehousing. That comparison is fundamentally flawed.

Vau is not operating a mini-storage facility, commercial warehouse, or storage business. She is not renting storage units to members of the public. The containers are accessory to her residential property and are intended for her personal storage. A residential homeowner's backyard shed does not become "Convenience Storage" merely because household goods are stored inside it. The same reasoning applies to these accessory storage structures.

The Director's interpretation would improperly convert the ordinary residential activity of storing personal property into a commercial land use based solely upon the type of enclosure in which the property is kept.

IX. THE ALLEGED AESTHETIC IMPACT UPON THE ADJOINING PROPERTY OWNER DOES NOT JUSTIFY RESCISSION OF A VALIDLY ISSUED BUILDING PERMIT.

The Determination relies heavily upon neighboring property owner Jim Dayton's objection that a container is visible from his property and affects his enjoyment of his home. That objection is understandable as a personal preference, but it does not establish a zoning violation. Whether a metal storage structure is more or less aesthetically pleasing than a woodshed, prefabricated storage building, detached garage, fence, greenhouse or other lawful accessory structure is inherently subjective.

The photograph submitted by Mr. Dayton does not establish that the container blocks a legally protected view. Nor does the Ukiah City Code cited in the Determination confer upon neighboring residential property owners a right to prevent otherwise lawful construction because it is visible from their property. Residential development necessarily changes neighboring sight lines. Homes, garages, fences, accessory dwelling units, sheds, landscaping and other lawful improvements may all affect what a neighbor sees from a window or deck. Mr. Dayton has not identified a view easement or other property right giving him a legally protected right to maintain an unobstructed view across Vau's property.

Nor should the City's subjective assessment of whether a shipping container is sufficiently attractive replace objective development standards. If the City desires screening, painting, landscaping, or similar aesthetic standards for shipping containers, it may enact such standards prospectively. The absence of such standards cannot fairly be cured by rescinding Vau's existing permit.

X. SPECULATIVE HEALTH AND SAFETY CONCERNS DO NOT SUPPORT THE DETERMINATION.

The Determination also relies upon generalized concerns identified in studies or regulations from other jurisdictions, including the possibility that shipping containers could contain hazardous or flammable materials, suffer corrosion, attract pests, or contain older paint.

Those concerns are speculative. There is no finding that Vau's containers actually contain prohibited hazardous materials, constitute a fire hazard, are structurally unsound, contain toxic paint, harbor rodents, or otherwise constitute a public nuisance.

The concern regarding storage of gasoline or other flammable materials is particularly unpersuasive as a reason for categorically prohibiting the structure itself. A homeowner could potentially store gasoline, paint, solvents, propane or other combustible materials in a conventional wooden storage shed or garage. The possibility that a lawful structure could someday be used improperly is not a rational basis for prohibiting the structure.

Moreover, a steel cargo container may provide greater resistance to ignition and exterior fire exposure than a conventional combustible wood-frame shed. If the City has concerns regarding particular hazardous materials, those concerns should be addressed through generally applicable fire, building and hazardous-material regulations—not by retroactively declaring the permitted structure itself unlawful.

XI. THE DIRECTOR'S DETERMINATION ALSO RAISES SERIOUS FAIR-NOTICE AND DUE-PROCESS CONCERNS.

Land-use regulations must provide property owners with reasonable notice of what is permitted and prohibited and must provide sufficiently ascertainable standards to avoid arbitrary administration. California courts recognize that zoning ordinances may violate due process when their terms fail to provide sufficient notice of what is permitted or prohibited or fail to provide standards capable of uniform application. (Zubarau v. City of Palmdale (2011) 192 Cal.App.4th 289; Sechrist v. Municipal Court (1976) 64 Cal.App.3d 737.)

Here, the City's own Planning Manager read the ordinance and concluded that Vau's proposed storage containers qualified as accessory buildings. The City issued a building permit on precisely that basis. More than a year later, another official interpreted the same ordinance differently.

That history itself demonstrates why retroactive enforcement of the later interpretation is inequitable. A property owner cannot reasonably be expected to predict that an expressly permitted project will later be prohibited based upon a distinction that does not appear anywhere in the City's written Code.

The rule of law requires land-use restrictions to arise from duly enacted law and to be administered according to reasonably ascertainable standards. It does not permit the applicable law to change from applicant to applicant or administrator to administrator after the City has already issued a permit and induced substantial reliance.

XII. CONCLUSION

This case is not about an owner who installed shipping containers without consulting the City and later sought forgiveness.

Vau did the opposite.

She contacted the City, disclosed exactly what she proposed to install, submitted the requested application and plans, complied with the City's setback requirements, underwent Planning Division review, paid the City's fees, obtained a building permit expressly authorizing four cargo shipping containers as an accessory structure, relied upon that permit by beginning the project and incurring substantial expense, and subsequently obtained an extension from the City to complete the work.

Only after all of that occurred did a different City official decide that the City's original interpretation of its own Code had been wrong.

California's vested-rights doctrine exists precisely because property owners must be able to rely upon governmental permits once substantial work and liabilities have been undertaken in good faith. The City should not retroactively impose a new interpretation upon a property owner who did everything the City required before beginning the project.

For all of the foregoing reasons, Vau respectfully requests that the City Council:

1. Grant this appeal;
2. Reverse the August 6, 2026 Determination of Appropriate Use;
3. Vacate the direction rescinding Building Permit No. R25-000077;
4. Confirm that Building Permit No. R25-000077 remains valid through its extended expiration date of October 14, 2026;
5. Permit Vau to complete the installation of the remining two cargo containers and if necessary, extend the current deadline of October 14, 2026 for a minimum of six months due to the delay caused by the Planning Manager's wrongful revocation of the permit

Respectfully Submitted,
VANNUCCI MOMSEN MORROW

BY: 
BRIAN S. MOMSEN

EXHIBIT A

Building Permit

City of Ukiah

City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

File Number:
25-000365

Permit Type: Residential Building Permit - Accessory Structure (Non-Dwelling)	**Permit #:** R25-000077
Issue Date: 04/14/2025	**Expiration Date:** 04/14/2026
Site Address: 814 JACKSON AVE	**Use of Building:**
APN: 00106002	**Value of Work:** $2,000.00
Property Owner: VAU KERRI FRANCES PO BOX 1389 UKIAH, CA 95482	**Applicant:** KERRI VAU PO BOX 1389 Ukiah Ca 95482 7074893669
Description of Work: INSTALL (4) CARGO SHIP CONTAINERS 8'X20' EACH	**Fees**

Description	Total Cost
Permit Fee	176.25
Plan Review	114.56
BSA	1.00
SMIP	0.50
Mandatory Training and Certification Surcharge	11.63
Technology and Records Management Surcharge	8.72
General Plan Update Fund	43.62
Total:	356.28

Permit Conditions/Notes:

Inspection requests require 24 hour notice. To request your inspection online, go to www.citizenserve.com/ukiah. After logging in, click on View My Requests, select your permit, then click on Request Inspection. To request your inspection by phone, please call (707) 463-6739.

Any permit issued expires twelve (12) months after the date of the issuance if no inspections have been made or twelve (12) months from the date of the last inspection and sign off. Permits may be extended with a written request.

EXHIBIT B

Building Permit

City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

File Number:
25-000365

Permit Type: Residential Building Permit - Accessory Structure (Non-Dwelling)	**Permit #:** R25-000077
Issue Date: 04/14/2025	**Expiration Date:** 10/14/2026
Site Address: 814 JACKSON AVE	**Use of Building:**
APN: 00106002	**Value of Work:** $2,000.00
Property Owner: VAU KERRI FRANCES PO BOX 1389 UKIAH, CA 95482	**Applicant:** KERRI VAU PO BOX 1389 Ukiah Ca 95482 7074893669
Description of Work: INSTALL (4) CARGO SHIP CONTAINERS 8'X20' EACH	**Fees**

Description	Total Cost
Permit Fee	176.25
Plan Review	114.56
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EXHIBIT C

Outlook

Costs for 2 Containers/Load in & set-up Expenses

From Kerri Vau <kerrivau@gmail.com>
Date Thu 8/13/2026 8:26 PM
To Brian Momsen <bmomsen@vmm-law.com>

Costs to date for cargo containers moved onto premises:

1st Cargo Container:

Chuck Vau:

4 hours Lowbed to Transport Loader.	$200.00 per hour	$800.00
4 hours 950 Cat Loader to move into place.	$200.00 per hour	$800.00

Jake Gibson:

4 hours Lowbed operator to haul containers	$800.00
1 hour install blocks,leveling	$ 65.00

2nd Cargo Container:

Chuck Vau

4 hours Lowbed Transport Loader	$200.00 per hour	$800.00
4 hours 950 Cat Loader	$200.00 per hour	$800.00

Jake Gibson

4 hours Lowbed Transport Cargo Container $200.00 hour	$800.00
1 hours Operator Set blocks, level Cargo Container	$ 65.00

2 Cargo Containers $500.00 each = $1000.00 (Paid cash to private party)

Based upon loading and tie down time and return to base: $5930.00 total costs.

Feel free to call Chuck with questions at (707) 489-0669.

Kerri