

**From:** Planning Counter  
**To:** Olander, Julie  
**Subject:** FW: Development Code Amendment Case Number WDCA24-0001 (Articles 438, 810, & 902)  
**Date:** Friday, May 31, 2024 1:50:13 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

---

Hi Julee,

Public comment for you.



**Courtney Weiche**

Senior Planner, Planning & Building Division | Community Services Department

[cweiche@washoecounty.gov](mailto:cweiche@washoecounty.gov) | Direct Line: 775.328.3608

Planning Division: 775.328.6100 | [Planning@washoecounty.gov](mailto:Planning@washoecounty.gov)

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**From:** Washoe311 <[Washoe311@washoecounty.gov](mailto:Washoe311@washoecounty.gov)>  
**Sent:** Friday, May 31, 2024 8:47 AM  
**To:** Planning Counter <[Planning@washoecounty.gov](mailto:Planning@washoecounty.gov)>  
**Subject:** FW: Development Code Amendment Case Number WDCA24-0001 (Articles 438, 810, & 902)

Greetings,

Below please find the public comment submitted to Washoe311. Let us know if we can provide additional information.

Thank you,



**Washoe311 Service Center**

Communications Division | Office of the County Manager

[washoe311@washoecounty.gov](mailto:washoe311@washoecounty.gov) | Office: 3-1-1 | 775.328.2003 | Fax: 775.328.2491

1001 E. Ninth St., Bldg A, Reno, NV 89512



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**From:** Nathan Robison <[nathan@robisoneng.com](mailto:nathan@robisoneng.com)>  
**Sent:** Thursday, May 30, 2024 8:22 AM  
**To:** Washoe311 <[Washoe311@washoecounty.gov](mailto:Washoe311@washoecounty.gov)>  
**Subject:** Development Code Amendment Case Number WDCA24-0001 (Articles 438, 810, & 902)

**[NOTICE: This message originated outside of Washoe County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]**

Good morning, Planning Commission

This email is in support of the proposed amendments, which were rigorously debated and publicly vetted in an extraordinary effort by Julee Olander and other Planning Department staff to engage the design and development community, and other public stakeholders.

On behalf of Robison Engineering, I request your approval of the Amendments.

[ROBISON ENGINEERING COMPANY, Inc](#)

Nathan Earl Robison, PE, WRS

Treasurer, Principal Engineer



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846 Victorian Avenue, Suite 20, Sparks, NV 89431

Nevada Lic.#16055

775-852-2251 O Extension 700

775-852-9736 f

775-240-7652 m

**From:** Rob  
**To:** [Roman, Brandon](#)  
**Subject:** Fwd: 6/4/24 Washoe County Planning Commission Agenda Item 9C, Case Number WDCA24-0001  
**Date:** Tuesday, June 4, 2024 5:29:06 PM  
**Attachments:** [image003.png](#)  
[WCPRockCrushingCode.pdf](#)  
**Importance:** High

---

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Begin forwarded message:

**From:** Dan Morgan <[dan@thebuilders.com](mailto:dan@thebuilders.com)>  
**Subject: 6/4/24 Washoe County Planning Commission Agenda Item 9C, Case Number WDCA24-0001**  
**Date:** June 4, 2024 at 4:18:51 PM PDT  
**To:** "dlazzareschi@gmail.com" <[dlazzareschi@gmail.com](mailto:dlazzareschi@gmail.com)>,  
"KateNelsonPE@gmail.com" <[KateNelsonPE@gmail.com](mailto:KateNelsonPE@gmail.com)>,  
"f.donshick@att.net" <[f.donshick@att.net](mailto:f.donshick@att.net)>,  
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"pataphillips@yahoo.com" <[pataphillips@yahoo.com](mailto:pataphillips@yahoo.com)>,  
"rmflick@washoecounty.gov" <[rmflick@washoecounty.gov](mailto:rmflick@washoecounty.gov)>,  
"washoe311@washoecounty.gov" <[washoe311@washoecounty.gov](mailto:washoe311@washoecounty.gov)>,  
"broman@washoecounty.gov" <[broman@washoecounty.gov](mailto:broman@washoecounty.gov)>

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Chair Pierce and Members of the Washoe County Planning Commission,

The attached letter is submitted on behalf of the Builders Association of Northern Nevada (the “Builders Association”) and its nearly 700 member companies and their thousands of employees. We request that this letter be made part of the public record of the proceedings before the Planning Commission, on June 4, 2024, of Agenda Item **9C – Development Code Amendment Case Number WDCA 24-001 (Articles 438, 810, & 902)**. The Builders Association has serious concerns with some of the amendments to the Washoe County Land Development Code proposed for consideration by the Planning Commission.

Respectfully,

Dan Morgan

Dan Morgan, Executive Officer  
The Builders Association  
[dan@thebuilders.com](mailto:dan@thebuilders.com)  
Office: 775-329-4611  
Mobile: 775-530-6500  
5484 Reno Corporate Drive, Suite 100  
Reno, Nevada 89511  
[TheBuilders.com](http://TheBuilders.com)





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June 4, 2024

Dear Washoe County Planning Commissioners:

On behalf of NAIOP Northern Nevada, the largest commercial real estate advocacy group in our region, I want to commend you for your service to our community and your willingness to listen to our concerns.

NAIOP would like to thank your staff and your consultants for all the time spent on this, specifically as it relates to adding clarity to the permitting process. However, our members and several of our community partner organizations have strong concerns about a proposed change in [Development Code Amendment Case Number WDCA24-0001](#).

Specifically, section 110.438.28, "Major Grading Permit Thresholds." Section (a)(2) calls for the new requirement of a Special Use Permit (SUP) for any rock crushing activity (page 14). Given the broad definition of "rock crushing" outlined on page 54, we believe that the updates to this code will impact all construction projects within the permit jurisdiction of Washoe County.

As most know, portions of Northern Nevada have underlying rock that is difficult to determine prior to construction. Even with significant investment to engage a qualified geotechnical firm to perform field exploration, it is often difficult to determine if rock will be encountered. Furthermore, it is difficult to determine the method for removal of the rock and whether blasting will be required. We are concerned with any code restrictions being enforced on something like this, since this restriction would occur at the time of permit, when it is likely that the extent of crushing and blasting will not be known.

It also must be clarified if rock is encountered on a site that previously was not anticipated to require it, what steps must be taken, if any, to permit this requirement? We would like written confirmation that a special use permit will not be required while a project is already under construction. This would require a delay and would have disastrous impacts to all parties, including the owner and the construction firm, and would increase the costs of construction which would have to be passed on to the end user.

Crushing of rock on site has the following benefits:

- Reduces construction traffic that would be required to haul rock off-site if not it is not being re-used on site. Not allowing this will increase traffic and noise during construction hours (which may be outside normal business hours depending on agency traffic control restrictions).
- Allows for the re-use of materials on site and reduces the requirement for the hauling of new gravel or rock material to a job site. This will reduce construction traffic and is in the spirit of sustainable building practices such as LEED requirements for diverting construction waste from disposal, which is met only by being able to reuse materials on site.



We would instead request that flexibility be brought into the Code in order to allow for rock crushing and blasting, if necessary, to be done but within certain parameters and determined on a project-by-project basis. Examples could be the following:

- Any rock crushing can only be performed on site from 8AM-5PM Monday - Friday (excluding holidays) or within the allowable hours of construction, whichever is more stringent.
- Noise from any crushing would have to follow similar noise requirements as it relates to construction.

We do not need to reiterate that adding requirements that will reduce flexibility to a development project comes at a cost. It is our strong belief that any further restrictions on construction will increase the cost of projects and thus increase the cost of the end product, whether that is commercial development, roadways, or, more importantly, housing. Land for residential projects is in short supply and many sites being evaluated for development are in topographically constrained areas. It is critical that these projects have the flexibility to efficiently deliver infrastructure, both from a time and cost standpoint.

Again, thank you for your service and for your willingness to listen to our concerns and work with us to address these important issues.

Please do not hesitate to reach out to us with any questions.

Sincerely,

*Ben Harris*

Ben Harris  
President, NAIOP Northern Nevada

*Tray Abney*

Tray Abney  
Government Affairs, NAIOP Northern Nevada

**From:** [Mark Nelson \(Home Gmail\)](#)  
**To:** [Roman, Brandon](#)  
**Cc:** [Emerson, Kathy](#)  
**Subject:** Re: Public Comment for WDCA24-0001 (Articles 438, 810 & 902)  
**Date:** Tuesday, June 4, 2024 11:56:16 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

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### Public Comment - WDCA24-0001

I was not involved in this modification, however, I have many years of large project experience and site preparation. I see no references to dust suppression and only one reference to fugitive dust. If thorough requirements for dust suppression do not exist elsewhere in your codes, then I believe they must be added.

Mark Nelson  
Retired development executive

On Tue, Jun 4, 2024 at 11:35 AM Roman, Brandon <[BRoman@washoecounty.gov](mailto:BRoman@washoecounty.gov)> wrote:

Interested Parties,

Here is a public comment for WDCA24-0001.

Sincerely,



**Brandon Roman**

**Senior Office Specialist, Planning & Building Division | Community Services Department**

[broman@washoecounty.gov](mailto:broman@washoecounty.gov) | Direct Line: 775.328.3606

My working hours: Monday-Friday 7:00am to 3:30pm

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June 4, 2024

Via Email

Rob Pierce, Chair  
Washoe County Planning Commission

**Re:** Planning Commission Agenda Item 9(C) for June 4, 2024

Dear Chair Pierce and Members of the Planning Commission,

This letter is submitted on behalf of the Builders Association of Northern Nevada (the “Builders Association”) and its nearly 700 member companies and their thousands of employees. We request that this letter be made part of the public record of the proceedings before the Planning Commission. The Builders Association has serious concerns with some of the proposed amendments to the Washoe County Land Development Code proposed for consideration by the Planning Commission. Specifically, the Builders Association is concerned over the requirement for a Special Use Permit for projects that entail “rock crushing” and the proposed definition of the term “rock crushing.” As set forth in more detail below, the County’s proposal is unprecedented, vague, confusing, and will undoubtedly result in delays and increased costs to build needed homes in Washoe County, resulting in higher home prices for residents.

The County’s proposal would amend current Development Code § 110.438.35 to require a Special Use Permit for major grading for “[a]ny project which proposes rock crushing used within the project of record (i.e., the approved tentative map, special use permit or building permit).” The County proposes to define “rock crushing” as “[t]he process of breaking down large rocks into smaller pieces or particles using mechanical force or explosives.” The terms “large rocks,” “smaller pieces or particles,” “mechanical force” and “explosives” are not defined in County Code today, nor are definitions proposed for those terms in the County’s proposal.

As an initial matter, a law that is impermissibly vague is unlawful. See *Silverwing Development v. Nevada State Contractors Board.*, 136 Nev. 642, 645, 476 P.3d 461, 464 (2020). A law is impermissibly vague, under Nevada law, for either of two reasons: “1) if it fails to provide a person of ordinary intelligence fair notice of what is prohibited; or (2) if it is so standardless that it authorizes or encourages seriously discriminatory enforcement.” *Id.* (internal citations omitted).

The County’s proposed definition of “rock crushing” is impermissibly vague. The proposed definition gives no guidance on the meaning of “large rocks.” A person will have no idea what dimensions and weight the County considers to be a large rock. A similar problem exists with the term “smaller pieces or particles.” A person will have no idea what “smaller pieces or particles” means. If a flake is chipped off a boulder, would that require a Special Use Permit? If a bowling ball sized rock is split in half, would that require a Special Use Permit? If bedrock needs to be broken up, is bedrock considered “large rocks?” Similar problems exist for the lack of definition of “mechanical”

and “explosives.” Is the use of a rock grinder or a jackhammer considered “mechanical?”<sup>1</sup> A person would have no way of knowing whether a Special Use Permit is required short of the impossible and untenable option of calling the County each time it needs to break a rock at a construction site and awaiting the County’s interpretation. Such a situation will undoubtedly result in chaos and inconsistent interpretations, creating further grounds for a legal challenge. See *Sec'y of State v. Tretiak*, 117 Nev. 299, 305, 22 P.3d 1134, 1138 (2001) (holding that an administrative decision will be set aside if it was arbitrary or capricious).

Moreover, the proposed amendment comes in the context of the requirements for a major grading permit. Even if a person understood what the County meant by “large rocks” and “smaller pieces or particles,” a person who needed to break a “large rock” on their construction site would need a major grading permit to do so, even if not engaged in actual grading. This is an entirely new and unprecedented requirement in the Development Code.

It is also important to note the commercially understood use of construction terms. See *Silverwing Development*, 476 P.3d at 464 (citing to Norman J. Singer & Shambie Singer, *Sutherland Statutes & Statutory Construction* § 47:31 (7<sup>th</sup> Ed. 2014) for the proposition that “commercial terms in a statute relating to trade or commerce have their trade or commercial meaning.”). Rock crushing is commercially understood to involve the use of large mobile rock crushers (or off-site rock crushing plants) to pulverize rocks into gravel or aggregate. Rock crushers typically require feeding large rocks into a hopper to be fed into a device which pulverizes the rocks into gravel or aggregate and ejects them out the other side of the, aptly named, rock crusher. A picture of a mobile rock crusher is attached hereto as Exhibit A. The County’s proposed definition would put a rock grinder or a jackhammer on the same level as a massive mobile rock crushing machine.

The confusion, delay and expense that will result from the County’s proposed amendment is difficult to underestimate. If adopted, construction of homes will slow to a snails pace while builders and contractors attempt to understand when a major grading permit is required and what type of commonly undertaken activities will be allowed or prohibited. A better option is to address each construction project on a project-by-project basis. If the County is concerned about potential disturbances to neighbors, such concerns can be addressed in tentative map or major grading permit through specific and targeted conditions of approval, such as limiting hours or days of operation for rock breaking activities.

For all of the above reasons, the Builders Association respectfully requests that the Planning Commission reject the County’s proposal to require a major grading permit for “rock crushing,” and similarly reject the County’s proposed definition of “rock crushing.”

Sincerely,



Justin Rowe  
President, The Builders Association



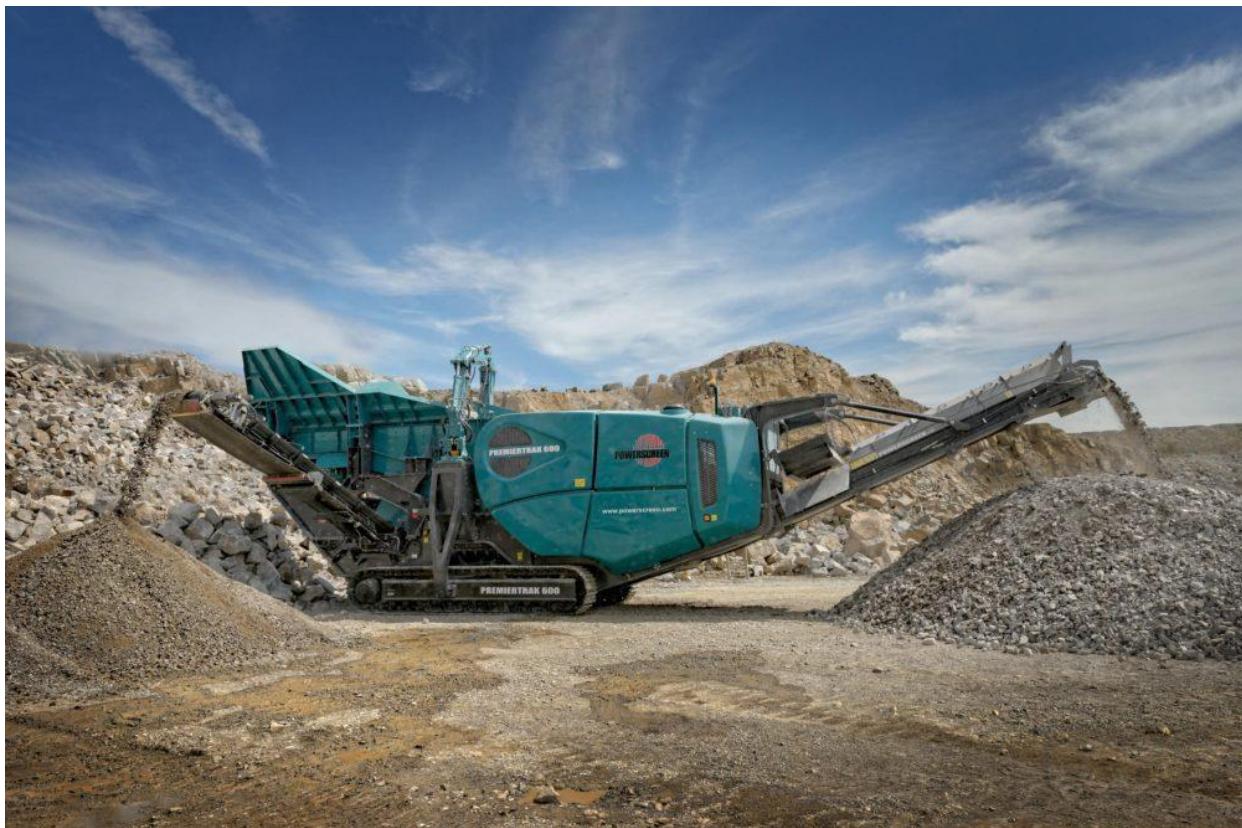
Dan Morgan  
Executive Officer, The Builders Association

Cc: Alexis Hill, Chair, Washoe County Board of County Commissioners (via email)  
Washoe County Planning Commissioners (Via Email)  
Brandon Roman, Recording Secretary ([broman@washoecounty.gov](mailto:broman@washoecounty.gov))  
[Washoe311@washoecounty.gov](mailto:Washoe311@washoecounty.gov)

<sup>1</sup> If so, the use of a jackhammer at a construction site would require a major grading permit, under the County’s proposed amendment.

Exhibit A.

Rock Crusher



**From:** [Roman, Brandon](#)  
**To:** [Olander, Julee](#)  
**Subject:** FW: Amended Ordinance for WDCA24-0001 I AM AGAINST THESE CHANGES.  
**Date:** Thursday, June 6, 2024 2:51:47 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

---

Here is a public comment after the fact.

---

**From:** rsiflash@nvbell.net <rsiflash@nvbell.net>  
**Sent:** Thursday, June 6, 2024 10:48 AM  
**To:** Roman, Brandon <[BRoman@washoecounty.gov](#)>  
**Subject:** RE: Amended Ordinance for WDCA24-0001 I AM AGAINST THESE CHANGES.

**[NOTICE:** This message originated outside of Washoe County -- **DO NOT CLICK** on **links** or open **attachments** unless you are sure the content is safe.]

Why are the grading fees being eliminated? Developers should pay these fees. MY tax dollars should not be used to subsidize what they are doing. I AM AGAINST THESE CHANGES.

Thank you,

Flash Fleischmann

---

**From:** Roman, Brandon <[BRoman@washoecounty.gov](#)>  
**Sent:** Tuesday, June 4, 2024 2:24 PM  
**Cc:** Emerson, Kathy <[KEmerson@washoecounty.gov](#)>  
**Subject:** Amended Ordinance for WDCA24-0001

Interested Parties,

Here is a copy of the Amended Ordinance for WDCA24-0001 (Articles 438, 810, & 902). Please see attached.

Sincerely,



**Brandon Roman**  
**Senior Office Specialist, Planning & Building Division | Community Services Department**  
[broman@washoecounty.gov](mailto:broman@washoecounty.gov) | Direct Line: 775.328.3606  
My working hours: Monday-Friday 7:00am to 3:30pm  
Visit us first online: [www.washoecounty.gov/csd](http://www.washoecounty.gov/csd)  
Planning Division: 775.328.6100 | [Planning@washoecounty.gov](mailto:Planning@washoecounty.gov)  
CSD Office Hours: Monday-Friday 8:00am to 4:00pm  
1001 East Ninth Street, Reno, NV 89512



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**To:** Olander, Julie  
**Subject:** FW: Development Code Amendment Case Number WDCA24-0001 (Articles 438, 810, & 902)  
**Date:** Friday, May 31, 2024 1:50:13 PM  
**Attachments:** [image001.png](#)  
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[image005.png](#)

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Hi Julee,

Public comment for you.



**Courtney Weiche**  
Senior Planner, Planning & Building Division | Community Services Department  
[cweiche@washoecounty.gov](mailto:cweiche@washoecounty.gov) | Direct Line: 775.328.3608  
Planning Division: 775.328.6100 | [Planning@washoecounty.gov](mailto:Planning@washoecounty.gov)

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**Sent:** Friday, May 31, 2024 8:47 AM  
**To:** Planning Counter <[Planning@washoecounty.gov](mailto:Planning@washoecounty.gov)>  
**Subject:** FW: Development Code Amendment Case Number WDCA24-0001 (Articles 438, 810, & 902)

Greetings,

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Thank you,



**Washoe311 Service Center**  
Communications Division | Office of the County Manager  
[washoe311@washoecounty.gov](mailto:washoe311@washoecounty.gov) | Office: 3-1-1 | 775.328.2003 | Fax: 775.328.2491  
1001 E. Ninth St., Bldg A, Reno, NV 89512



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**Sent:** Thursday, May 30, 2024 8:22 AM  
**To:** Washoe311 <[Washoe311@washoecounty.gov](mailto:Washoe311@washoecounty.gov)>  
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Good morning, Planning Commission

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On behalf of Robison Engineering, I request your approval of the Amendments.

**ROBISON ENGINEERING COMPANY, Inc**

Nathan Earl Robison, PE, WRS  
Treasurer, Principal Engineer



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846 Victorian Avenue, Suite 20, Sparks, NV 89431  
Nevada Lic.#16055  
775-852-2251 O Extension 700  
775-852-9736 f  
775-240-7652 m

**From:** [Mark Nelson \(Home Gmail\)](#)  
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Retired development executive

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Interested Parties,

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Sincerely,



**Brandon Roman**

**Senior Office Specialist, Planning & Building Division | Community Services Department**

[broman@washoecounty.gov](mailto:broman@washoecounty.gov) | Direct Line: 775.328.3606

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June 4, 2024

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NAIOP would like to thank your staff and your consultants for all the time spent on this, specifically as it relates to adding clarity to the permitting process. However, our members and several of our community partner organizations have strong concerns about a proposed change in [Development Code Amendment Case Number WDCA24-0001](#).

Specifically, section 110.438.28, "Major Grading Permit Thresholds." Section (a)(2) calls for the new requirement of a Special Use Permit (SUP) for any rock crushing activity (page 14). Given the broad definition of "rock crushing" outlined on page 54, we believe that the updates to this code will impact all construction projects within the permit jurisdiction of Washoe County.

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- Any rock crushing can only be performed on site from 8AM-5PM Monday - Friday (excluding holidays) or within the allowable hours of construction, whichever is more stringent.
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We do not need to reiterate that adding requirements that will reduce flexibility to a development project comes at a cost. It is our strong belief that any further restrictions on construction will increase the cost of projects and thus increase the cost of the end product, whether that is commercial development, roadways, or, more importantly, housing. Land for residential projects is in short supply and many sites being evaluated for development are in topographically constrained areas. It is critical that these projects have the flexibility to efficiently deliver infrastructure, both from a time and cost standpoint.

Again, thank you for your service and for your willingness to listen to our concerns and work with us to address these important issues.

Please do not hesitate to reach out to us with any questions.

Sincerely,

*Ben Harris*

Ben Harris  
President, NAIOP Northern Nevada

*Tray Abney*

Tray Abney  
Government Affairs, NAIOP Northern Nevada

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**To:** [Roman, Brandon](#)  
**Subject:** Fwd: 6/4/24 Washoe County Planning Commission Agenda Item 9C, Case Number WDCA24-0001  
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[WCPRockCrushingCode.pdf](#)  
**Importance:** High

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Begin forwarded message:

**From:** Dan Morgan <[dan@thebuilders.com](mailto:dan@thebuilders.com)>  
**Subject: 6/4/24 Washoe County Planning Commission Agenda Item 9C, Case Number WDCA24-0001**  
**Date:** June 4, 2024 at 4:18:51 PM PDT  
**To:** "dlazzareschi@gmail.com" <[dlazzareschi@gmail.com](mailto:dlazzareschi@gmail.com)>,  
"KateNelsonPE@gmail.com" <[KateNelsonPE@gmail.com](mailto:KateNelsonPE@gmail.com)>,  
"f.donshick@att.net" <[f.donshick@att.net](mailto:f.donshick@att.net)>,  
"lkennedy@washoecounty.gov" <[lkennedy@washoecounty.gov](mailto:lkennedy@washoecounty.gov)>,  
"rpierce@washoecounty.gov" <[rpierce@washoecounty.gov](mailto:rpierce@washoecounty.gov)>,  
"pataphillips@yahoo.com" <[pataphillips@yahoo.com](mailto:pataphillips@yahoo.com)>,  
"rmflick@washoecounty.gov" <[rmflick@washoecounty.gov](mailto:rmflick@washoecounty.gov)>,  
"washoe311@washoecounty.gov" <[washoe311@washoecounty.gov](mailto:washoe311@washoecounty.gov)>,  
"broman@washoecounty.gov" <[broman@washoecounty.gov](mailto:broman@washoecounty.gov)>

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Chair Pierce and Members of the Washoe County Planning Commission,

The attached letter is submitted on behalf of the Builders Association of Northern Nevada (the “Builders Association”) and its nearly 700 member companies and their thousands of employees. We request that this letter be made part of the public record of the proceedings before the Planning Commission, on June 4, 2024, of Agenda Item **9C – Development Code Amendment Case Number WDCA 24-001 (Articles 438, 810, & 902)**. The Builders Association has serious concerns with some of the amendments to the Washoe County Land Development Code proposed for consideration by the Planning Commission.

Respectfully,

Dan Morgan

Dan Morgan, Executive Officer  
The Builders Association  
[dan@thebuilders.com](mailto:dan@thebuilders.com)  
Office: 775-329-4611  
Mobile: 775-530-6500  
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June 4, 2024

Via Email

Rob Pierce, Chair  
Washoe County Planning Commission

**Re:** Planning Commission Agenda Item 9(C) for June 4, 2024

Dear Chair Pierce and Members of the Planning Commission,

This letter is submitted on behalf of the Builders Association of Northern Nevada (the “Builders Association”) and its nearly 700 member companies and their thousands of employees. We request that this letter be made part of the public record of the proceedings before the Planning Commission. The Builders Association has serious concerns with some of the proposed amendments to the Washoe County Land Development Code proposed for consideration by the Planning Commission. Specifically, the Builders Association is concerned over the requirement for a Special Use Permit for projects that entail “rock crushing” and the proposed definition of the term “rock crushing.” As set forth in more detail below, the County’s proposal is unprecedented, vague, confusing, and will undoubtedly result in delays and increased costs to build needed homes in Washoe County, resulting in higher home prices for residents.

The County’s proposal would amend current Development Code § 110.438.35 to require a Special Use Permit for major grading for “[a]ny project which proposes rock crushing used within the project of record (i.e., the approved tentative map, special use permit or building permit).” The County proposes to define “rock crushing” as “[t]he process of breaking down large rocks into smaller pieces or particles using mechanical force or explosives.” The terms “large rocks,” “smaller pieces or particles,” “mechanical force” and “explosives” are not defined in County Code today, nor are definitions proposed for those terms in the County’s proposal.

As an initial matter, a law that is impermissibly vague is unlawful. See *Silverwing Development v. Nevada State Contractors Board.*, 136 Nev. 642, 645, 476 P.3d 461, 464 (2020). A law is impermissibly vague, under Nevada law, for either of two reasons: “1) if it fails to provide a person of ordinary intelligence fair notice of what is prohibited; or (2) if it is so standardless that it authorizes or encourages seriously discriminatory enforcement.” *Id.* (internal citations omitted).

The County’s proposed definition of “rock crushing” is impermissibly vague. The proposed definition gives no guidance on the meaning of “large rocks.” A person will have no idea what dimensions and weight the County considers to be a large rock. A similar problem exists with the term “smaller pieces or particles.” A person will have no idea what “smaller pieces or particles” means. If a flake is chipped off a boulder, would that require a Special Use Permit? If a bowling ball sized rock is split in half, would that require a Special Use Permit? If bedrock needs to be broken up, is bedrock considered “large rocks?” Similar problems exist for the lack of definition of “mechanical”

and “explosives.” Is the use of a rock grinder or a jackhammer considered “mechanical?”<sup>1</sup> A person would have no way of knowing whether a Special Use Permit is required short of the impossible and untenable option of calling the County each time it needs to break a rock at a construction site and awaiting the County’s interpretation. Such a situation will undoubtedly result in chaos and inconsistent interpretations, creating further grounds for a legal challenge. See *Sec'y of State v. Tretiak*, 117 Nev. 299, 305, 22 P.3d 1134, 1138 (2001) (holding that an administrative decision will be set aside if it was arbitrary or capricious).

Moreover, the proposed amendment comes in the context of the requirements for a major grading permit. Even if a person understood what the County meant by “large rocks” and “smaller pieces or particles,” a person who needed to break a “large rock” on their construction site would need a major grading permit to do so, even if not engaged in actual grading. This is an entirely new and unprecedented requirement in the Development Code.

It is also important to note the commercially understood use of construction terms. See *Silverwing Development*, 476 P.3d at 464 (citing to Norman J. Singer & Shambie Singer, *Sutherland Statutes & Statutory Construction* § 47:31 (7<sup>th</sup> Ed. 2014) for the proposition that “commercial terms in a statute relating to trade or commerce have their trade or commercial meaning.”). Rock crushing is commercially understood to involve the use of large mobile rock crushers (or off-site rock crushing plants) to pulverize rocks into gravel or aggregate. Rock crushers typically require feeding large rocks into a hopper to be fed into a device which pulverizes the rocks into gravel or aggregate and ejects them out the other side of the, aptly named, rock crusher. A picture of a mobile rock crusher is attached hereto as Exhibit A. The County’s proposed definition would put a rock grinder or a jackhammer on the same level as a massive mobile rock crushing machine.

The confusion, delay and expense that will result from the County’s proposed amendment is difficult to underestimate. If adopted, construction of homes will slow to a snails pace while builders and contractors attempt to understand when a major grading permit is required and what type of commonly undertaken activities will be allowed or prohibited. A better option is to address each construction project on a project-by-project basis. If the County is concerned about potential disturbances to neighbors, such concerns can be addressed in tentative map or major grading permit through specific and targeted conditions of approval, such as limiting hours or days of operation for rock breaking activities.

For all of the above reasons, the Builders Association respectfully requests that the Planning Commission reject the County’s proposal to require a major grading permit for “rock crushing,” and similarly reject the County’s proposed definition of “rock crushing.”

Sincerely,



Justin Rowe  
President, The Builders Association



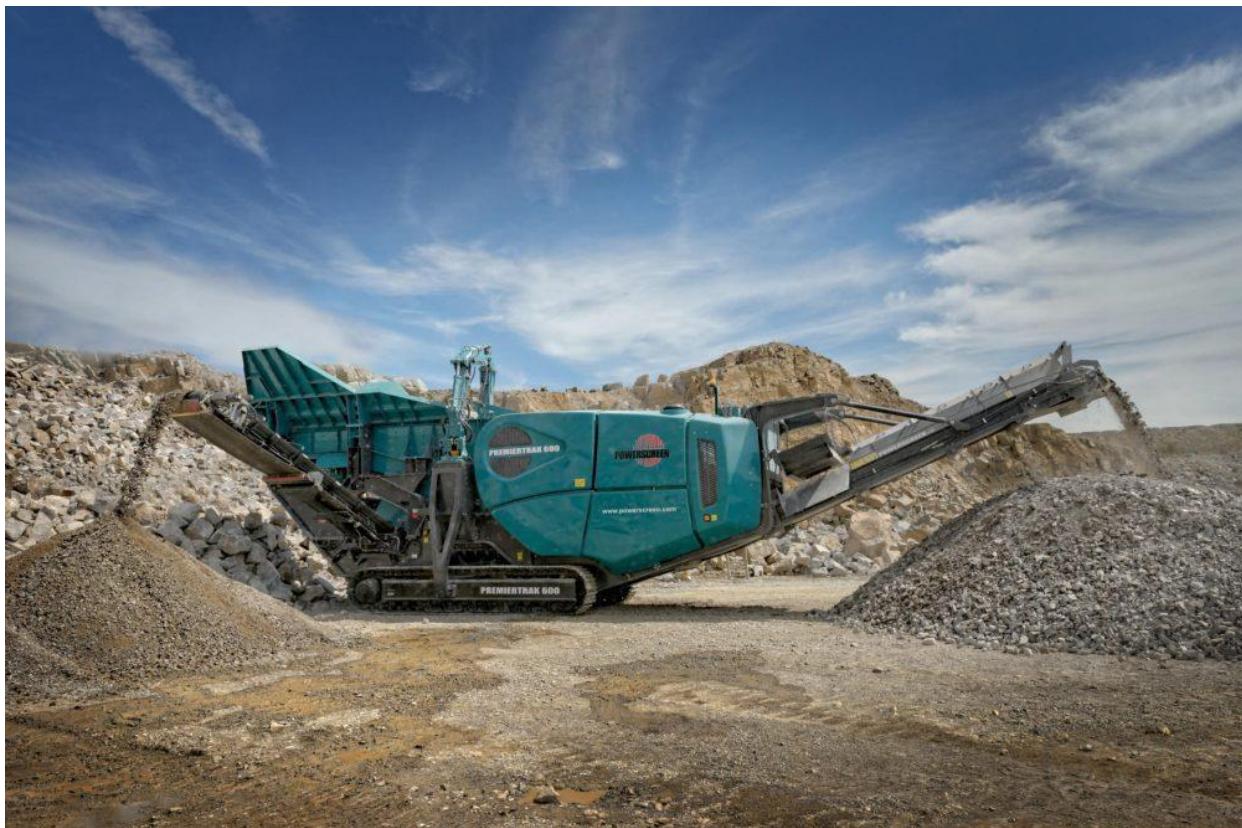
Dan Morgan  
Executive Officer, The Builders Association

Cc: Alexis Hill, Chair, Washoe County Board of County Commissioners (via email)  
Washoe County Planning Commissioners (Via Email)  
Brandon Roman, Recording Secretary ([broman@washoecounty.gov](mailto:broman@washoecounty.gov))  
[Washoe311@washoecounty.gov](mailto:Washoe311@washoecounty.gov)

<sup>1</sup> If so, the use of a jackhammer at a construction site would require a major grading permit, under the County’s proposed amendment.

Exhibit A.

Rock Crusher



**From:** [Bill Thomas](#)  
**To:** [Roman, Brandon](#)  
**Cc:** [Emerson, Kathy](#); [Olander, Julee](#); [Solaro, David](#); [Dale Keller](#); [Jeffrey Wilbrecht](#)  
**Subject:** RE: Amended Ordinance for WDCA24-0001  
**Date:** Wednesday, June 5, 2024 10:04:29 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)  
[image009.png](#)  
[image010.png](#)

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We may have already commented on this but in case we haven't, I would ask that there be a carve out for RTC roadway projects. We are not a developer and build roads in the unincorporated areas on behalf of Washoe County. Washoe County staff are intimately involved in the development of the design of RTC roadways including all grading. To have duplicate internal review processes (i.e. building permits and/or special use permits) for the grading of publicly built roadways doesn't seem to add any value nor benefit the public. In the cases where grading standards might need to be varied it will most often be associated with a unique physical situation where the tradeoff might be taking private property (i.e. condemnation). As a general rule, the RTC Board, and very likely the BCC, are extremely conservative about the use of eminent domain. They generally want us to prove there is no viable alternative before we condemn private property. It would seem that the logical path would be for the County Engineer to be the decision maker on the application of grading practices in the construction of public roadways.

Thanks for your consideration!

---

**From:** Roman, Brandon <[BRoman@washoecounty.gov](mailto:BRoman@washoecounty.gov)>  
**Sent:** Tuesday, June 4, 2024 2:32 PM  
**Cc:** Emerson, Kathy <[KEmerson@washoecounty.gov](mailto:KEmerson@washoecounty.gov)>  
**Subject:** FW: Amended Ordinance for WDCA24-0001

**WARNING - This email originated from outside the RTC: Exercise caution when opening attachments or clicking links, especially from unknown senders.**

For your convenience, page 3 of the ordinance was amended. Please see below.

---

**From:** Olander, Julee <[JOlander@washoecounty.gov](mailto:JOlander@washoecounty.gov)>  
**Sent:** Tuesday, June 4, 2024 2:28 PM  
**To:** Roman, Brandon <[BRoman@washoecounty.gov](mailto:BRoman@washoecounty.gov)>

**Subject:** RE: Amended Ordinance for WDCA24-0001

All that is being removed is the highlighted section on page 3-

**Section 110.438.05 Scope.** This article sets forth rules and regulations to control grading which includes clearing and grubbing, excavation, grading, earthwork construction, fills, and embankments; establishes the administrative procedure for issuance of permits; establishes the administrative procedure to respond to grading completed without first obtaining appropriate permits and provides for approval of plans and inspection of grading construction. The appropriate American Society for Testing and Materials (ASTM) materials testing standards or equivalent as approved by the County Engineer will be used as required to verify grading and earthwork construction. This article is enforceable by the County Engineer, **the Director of Community Development the Planning and Building Division** and the County Building Official, as appropriate. **The standards of this article may be modified by the Director of Planning and Building, with the agreement of the County Engineer, when there are project-specific circumstances whereby the standards set forth herein may require special consideration beyond the standards requirements. However, in modifying the standards, the Director may not waive the requirement for a grading permit or a special use permit.**



**Julee Olander, Planner**

[jolander@washoecounty.gov](mailto:jolander@washoecounty.gov) | Direct Line: 775.328.3627

My working hours: Monday-Friday 8:00am to 4:30pm

Visit us first online: [www.washoecounty.gov/csd](http://www.washoecounty.gov/csd)

Planning Division: 775.328.6100 | [Planning@washoecounty.gov](mailto:Planning@washoecounty.gov)

CSD Office Hours: Monday-Friday 8:00am to 4:00pm

1001 East Ninth Street, Reno, NV 89512



---

**From:** Roman, Brandon <[BRoman@washoecounty.gov](mailto:BRoman@washoecounty.gov)>

**Sent:** Tuesday, June 4, 2024 2:24 PM

**Cc:** Emerson, Kathy <[KEmerson@washoecounty.gov](mailto:KEmerson@washoecounty.gov)>; Olander, Julee <[Jolander@washoecounty.gov](mailto:Jolander@washoecounty.gov)>; Lloyd, Trevor <[TLloyd@washoecounty.gov](mailto:TLloyd@washoecounty.gov)>; Gustafson, Jennifer <[jgustafson@da.washoecounty.gov](mailto:jgustafson@da.washoecounty.gov)>

**Subject:** Amended Ordinance for WDCA24-0001

Commissioners,

Here is a copy of the Amended Ordinance for WDCA24-0001 (Articles 438, 810, & 902). Hard Copies will be provided in Chambers. Please see attached.

Sincerely,

Brandon Roman  
Senior Office Specialist, Planning & Building Division | Community Services



**Department**

[broman@washoecounty.gov](mailto:broman@washoecounty.gov) | Direct Line: 775.328.3606

My working hours: Monday-Friday 7:00am to 3:30pm

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