



# CITY OF CULVER CITY

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JEFFREY COOPER  
MAYOR

THOMAS AUJERO SMALL  
VICE MAYOR

COUNCIL MEMBERS  
JIM B. CLARKE  
GÖRAN ERIKSSON  
MEGHAN SAHLI-WELLS

April 18, 2018

VIA EMAIL

Public Works and Gang Reduction Committee  
c/o City Clerk  
City of Los Angeles  
200 N. Spring Street  
City Hall - Room 360  
Los Angeles, CA 90012  
Email: [CityClerk@lacity.org](mailto:CityClerk@lacity.org)

**RE: Council File No 17-1342-S1, Agenda Item 4 for the Public Works and Gang Reduction Committee Meeting on Wednesday, April 18, 2018, "Categorical Exemption and Motion (Koretz - Blumenfield), with regard to The Boring Company's Proof of Concept Tunnel Project (Project), consideration whether the Project is categorically exempt under Section 15332, Class 32 of the California Environmental Quality Act (CEQA) Guidelines, and related actions regarding the necessary authorizations and permits for the Project."**

Dear Committee Members,

On the April 18, 2018, Public Works and Gang Reduction Committee ("Committee") agenda, the following item is to be considered: (1) the Koretz-Blumenfield Motion with regard to The Boring Company's Proof of Concept Tunnel Project ("Project"), including related actions regarding the necessary authorizations and permits for the Project; and (2) whether the Project is categorically exempt under Section 15332, Class 32 of the California Environmental Quality Act (CEQA) Guidelines ("Categorical Exemption").

On behalf of the City Council of the City of Culver City ("Culver City"), the following preliminary comments on the Project and Categorical Exemption are hereby submitted for consideration by the Committee:

1. The Project description is not sufficiently defined.
2. CEQA Appendix G is the incorrect environmental checklist form for the Project. If the Class 32 exemption applies, the CEQA Appendix N Infill Environmental Checklist Form, which is specific to In-Fill projects, should have been used to conduct the Initial Study.

3. The public purpose for use of the public right-of-way, as well as the legal basis upon which applicant is entitled to use the public right-of-way, is not clearly stated.
4. CEQA prohibits piecemeal review of the significant environmental impacts of a project. Piecemealing is the process of attempting to avoid a full environmental review by splitting a project into several smaller projects which appear more innocuous than the total planned project. Assertion of the Categorical Exemption for the Project fails to acknowledge the actual extent of the complete project, of which the Project is only a part.
5. The courts have found improper piecemealing “when the purpose of the reviewed project is to be the first step toward future development” or “when the reviewed project legally compels or practically presumes completion of another action.” (*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1223). CEQA mandates that “environmental considerations do not become submerged by chopping a large project into many little ones – each with minimal potential impact on the environment – which cumulatively may have disastrous consequences.” (*Bozung v. Local Agency Formation Commission of Ventura County et al.*, (1975) 13 Cal. 3d 263, 283-284).
6. *The conditions for asserting the Categorical Exemption have not been met.* Class 32 – In-Fill Development Projects (CEQA Guidelines 15332) can only be asserted if: (1) the project is consistent with the applicable General Plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (2) the **proposed development occurs within city limits** on a **project site of no more than five acres** substantially surrounded by urban uses; (3) the project site has no value, as habitat for endangered, rare or threatened species; (4) **approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality**; and (5) the site can be adequately served by all required utilities and public services.

A portion of the Project is located under public right-of-way within the jurisdictional boundaries of Culver City; therefore, it is not entirely within the City of Los Angeles limits, and a Class 32 exemption is not the appropriate CEQA review process and cannot be asserted. Also, since a portion of the Project is within Culver City, the initial study must analyze whether it is consistent with Culver City’s General Plan. In addition, the methodology/calculation of the Project site is flawed by limiting the acreage calculation strictly to the tunnel itself, in order to meet the “no more than five acres” condition. Further, the Initial Study does not adequately evaluate the Project’s impacts such as, but not limited to: whether the Project may impede the use of public right-of-way for future public purposes, including, but not limited to, public utilities and public transportation; and impacts from tunneling, which may include ground failure, settlement impacting local circulation, noise and vibration impacting nearby sensitive receptors such as medical facilities, clinics or media uses.

7. The Categorical Exemption is inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. If The Boring Company's Proof of Concept Tunnel is considered a separate project, and the future tunnels and their uses are also each separate projects, then the Categorical Exemption cannot be asserted, unless it is determined there will be no significant cumulative impacts from the future similar projects. If LA City contends all the tunnels and uses are one project, then the Categorical Exemption cannot be asserted, because, at a minimum, the project would be occurring on more than 5 acres. Additionally, if LA City claims each tunnel is a separate project, and the cumulative impact of all those related projects is significant, then the Categorical Exemption cannot be asserted. Some analysis regarding that last issue must be in the record, but it is not.
8. If the Committee intends to proceed with review of the Project, then more time should be allowed for review of the pertinent materials. The Notice of Exemption for the Project was filed on March 28, 2018, giving interested parties only 21 days for interested parties and the public to review an almost 1600-page document. Any decision on the Project and Categorical Exemption should be delayed for at least 30 days to provide sufficient time to conduct an adequate review.

If you have any questions regarding these comments, please contact Jesse Mays, Assistant to the City Manager, at (310) 253-6000 or [jesse.mays@culvercity.org](mailto:jesse.mays@culvercity.org).

We look forward to working with the City of Los Angeles to ensure the entirety of this significant project is adequately reviewed, and all available and relevant information is considered, in order to protect the public health, safety and general welfare of all neighboring communities, stakeholders and the environment.

Sincerely,



Mayor Jeff Cooper  
City of Culver City

cc:

Mayor Eric Garcetti  
Councilmember Bob Blumenfield  
Councilmember Paul Koretz  
Michael Espinosa, Legislative Assistant



Michael Espinosa <michael.espinosa@lacity.org>

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## Fwd: Public Comment Regarding Council File: 17-1342-S1

1 message

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**Anna Martinez** <anna.martinez@lacity.org>

Wed, Apr 18, 2018 at 7:07 AM

To: Michael Espinosa <michael.espinosa@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

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**Anna Martinez**  
**Office of the City Clerk**  
200 N. Spring St., Rm. 360  
Los Angeles, CA 90012  
213-978-1025  
213-978-1027 - FAX  
Mail Stop 160-01



----- Forwarded message -----

From: **D Ortiz** <dom.ortiz3@gmail.com>

Date: Wed, Apr 18, 2018 at 6:19 AM

Subject: Public Comment Regarding Council File: 17-1342-S1

To: [CityClerk@lacity.org](mailto:CityClerk@lacity.org)

The City cannot issue a permit without conducting a full Environmental Impact Report, as the project is unusual and only one of multiple phases in violation of PRC Section 15378.

A permit would violate Metro's PUC 130051.12(a)(4) right to review and approve rail corridors and harm me as a transit user and future user of the Sepulveda Pass Transit Corridor.

Clerk, please include this email in the official record.



Michael Espinosa <michael.espinosa@lacity.org>

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## Fwd: Public Comment Regarding Council File: 17-1342-S1

1 message

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**Anna Martinez** <anna.martinez@lacity.org>

Wed, Apr 18, 2018 at 7:07 AM

To: Michael Espinosa <michael.espinosa@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

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**Anna Martinez**  
**Office of the City Clerk**

200 N. Spring St., Rm. 360

Los Angeles, CA 90012

213-978-1025

213-978-1027 - FAX

Mail Stop 160-01



----- Forwarded message -----

From: **Ben Phelps** <bphelps@gmail.com>

Date: Tue, Apr 17, 2018 at 11:39 PM

Subject: Public Comment Regarding Council File: 17-1342-S1

To: [cityclerk@lacity.org](mailto:cityclerk@lacity.org)

Hello,

I'm a concerned Los Angeles citizen and transportation advocated writing with extreme concern regarding a motion to exempt Elon Musk's Boring Company from CEQA analysis. The legal logic behind this is faulty and would potentially negatively impact the city. Because of the faulty logic it would also expose the city to litigation over the misuse of the CEQA exemptions, litigation which the city would likely lose.

We need real transit projects, false hope from millionaire "geniuses" without the basic understanding of transportation policy and history.

The City cannot issue a permit without conducting a full Environmental Impact Report, as the project is unusual and only one of multiple phases in violation of PRC Section 15378.

A permit would violate Metro's PUC 130051.12(a)(4) right to review and approve rail corridors and harm me as a transit user and future user of the Sepulveda Pass Transit Corridor.

Clerk, please include this email in the official record.

Thank you for your time,  
Ben Phelps  
Silverlake



Michael Espinosa <michael.espinosa@lacity.org>

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## Opposition to Proposed CEQA Exemption and Permit at 2352-6 Sepulveda Blvd Council File: 17-1342-S1

1 message

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**Juan Matute** <jmatute@gmail.com>

Tue, Apr 17, 2018 at 9:22 PM

To: cityclerk@lacity.org

Cc: michael.espinosa@lacity.org, gloria.pinon@lacity.org, jay.greenstein@lacity.org

Dear City Clerk,

I am opposed to the proposed CEQA exemption and the city taking any action on an excavation or any other construction or demolition permit.

The City cannot issue any permit without conducting a full Environmental Impact Report. I do not believe the project meets the requirements for any categorical exemption under CEQA. The project's definition in the Initial Study is erroneous. The project is not a limited proof-of-concept test. The Applicant has made multiple public statements that the proposed project is part of a multi-phase subterranean tunnels project that it wishes to operate and open to the public. These future phases of the project are reasonably foreseeable and would create both indirect and direct physical changes in the environment. Approving any phase of the project, however limited, without an Environmental Impact Report is in clear violation Public Resources Code Section 15378.

**Figure 1: Map from [www.boringcompany.com](http://www.boringcompany.com) which indicates reasonably-foreseeable future project phases.**



The proposed tunnel diameter is incompatible with Metro's light rail and heavy rail subway tunnels. Public Utilities Code Section 130252(a) grants the Los Angeles County Metropolitan Transportation Authority legal authority over the design, construction, and implementation of public mass transit systems or projects right to approval of final rail corridor selections. I believe the city's action to issue a permit for excavation and boring would violate Metro's rights to review and approve rail corridors and harm me as a transit user and future user of the Sepulveda Pass Transit Corridor, as this project could be delayed or rerouted due to the City's action to issue a permit.

Because of their exclusive authority and the fact that the multi-phase project spans multiple city, local agency, special district, and unincorporated county boundaries, only the Los Angeles County Metropolitan Transportation Authority meets the Lead Agency criteria outlined in Public Resources Code Section 15051. The City of Los Angeles should work with Metro as a responsible agency. Any dispute over lead agency status should be easily resolved by the Office of Planning and Research through the process outlined in Public Resources Code Section 21165.

Clerk, please include this email in the official record for Council File 17-1342-S1.

Thank you,  
Juan Matute





Michael Espinosa <michael.espinosa@lacity.org>

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## Fwd: Musk's tunnel

1 message

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**Anna Martinez** <anna.martinez@lacity.org>

Tue, Apr 17, 2018 at 4:05 PM

To: Michael Espinosa <michael.espinosa@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

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**Anna Martinez**  
**Office of the City Clerk**  
200 N. Spring St., Rm. 360  
Los Angeles, CA 90012  
213-978-1025  
213-978-1027 - FAX  
Mail Stop 160-01



----- Forwarded message -----

From: **Aaron Hernandez** <mrhorsemhorse@icloud.com>

Date: Tue, Apr 17, 2018 at 3:55 PM

Subject: Musk's tunnel

To: [CityClerk@lacity.org](mailto:CityClerk@lacity.org)

I write. This to express my concern that Elon Musks tunnel under Sepulveda will infringe I'd LAMTA's plans for the Sepulveda Pass Transit Corridor.

Sent from my iPad



Michael Espinosa <michael.espinosa@lacity.org>

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## Fwd: Public Comment Regarding Council File: 17-1342-S1

1 message

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**Anna Martinez** <anna.martinez@lacity.org>

Tue, Apr 17, 2018 at 3:03 PM

To: Michael Espinosa <michael.espinosa@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

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**Anna Martinez**  
**Office of the City Clerk**  
200 N. Spring St., Rm. 360  
Los Angeles, CA 90012  
213-978-1025  
213-978-1027 - FAX  
Mail Stop 160-01



----- Forwarded message -----

From: **Cynthia Gooden** <cindygooden@gmail.com>

Date: Tue, Apr 17, 2018 at 3:01 PM

Subject: Public Comment Regarding Council File: 17-1342-S1

To: [CityClerk@lacity.org](mailto:CityClerk@lacity.org)

To whom it may concern,

Public mobility trumps private pet project. Musk's ideas do not provide public benefit - they are designed to benefit Musk and his rich friends only.

The City cannot issue a permit without conducting a full Environmental Impact Report, as the project is unusual and only one of multiple phases in violation of PRC Section 15378.

A permit would violate Metro's PUC 130051.12(a)(4) right to review and approve rail corridors and harm me as a transit user and future user of the Sepulveda Pass Transit Corridor.

Clerk, please include this email in the official record.

Thank you,

Cindy Gooden  
Del Rey, Los Angeles



Michael Espinosa <michael.espinosa@lacity.org>

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## Fwd: Public Comment Regarding Council File: 17-1342-S1

1 message

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**Gloria Pinon** <gloria.pinon@lacity.org>  
To: Michael Espinosa <michael.espinosa@lacity.org>  
Cc: Anna Martinez <anna.martinez@lacity.org>

Wed, Apr 18, 2018 at 8:55 AM

Please see below email.

**Gloria Piñon**  
**Office of the City Clerk**  
Tel. (213) 978-1022  
Fax (213) 978-1027  
Mail Stop #160-01



----- Forwarded message -----

From: **Partho Kalyani** <parthokalyani@gmail.com>  
Date: Tue, Apr 17, 2018 at 9:50 PM  
Subject: Public Comment Regarding Council File: 17-1342-S1  
To: [CityClerk@lacity.org](mailto:CityClerk@lacity.org)

The City cannot issue a permit without conducting a full Environmental Impact Report, as the project is unusual and only one of multiple phases in violation of PRC Section 15378.  
A permit would violate Metro's PUC 130051.12(a)(4) right to review and approve rail corridors and harm me as a transit user and future user of the Sepulveda Pass Transit Corridor.  
Clerk, please include this email in the official record.

Sent from my iPhone



Michael Espinosa <michael.espinosa@lacity.org>

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## Fwd: Oppose Boring Company proposal

1 message

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**Gloria Pinon** <gloria.pinon@lacity.org>  
To: Michael Espinosa <michael.espinosa@lacity.org>  
Cc: Anna Martinez <anna.martinez@lacity.org>

Wed, Apr 18, 2018 at 8:55 AM

Please see below email.

**Gloria Piñon**  
**Office of the City Clerk**  
Tel. (213) 978-1022  
Fax (213) 978-1027  
Mail Stop #160-01



----- Forwarded message -----

From: **'Kathleen Smith' via Clerk - CityClerk** <cityclerk@lacity.org>  
Date: Tue, Apr 17, 2018 at 4:44 PM  
Subject: Oppose Boring Company proposal  
To: Herb Wesson <councilmember.wesson@lacity.org>, cityclerk@lacity.org, joan.pelico@lacity.org

Los Angeles Office of the City Clerk,

I oppose CF 17-1342-S1.

I do not agree with the QEQA exemption for the Boring Company tunnel. There should be a full environmental review. I am very concerned that this tunnel will preclude Metro's Sepulveda corridor subway.

We need more subways, not car-tunnels. We need to move away car infrastructure. We have spent decades building car infrastructure and it only induces demand and makes more car congestion. Stop.

Kathleen Smith  
3781 Olmsted Ave.  
90018  
Homeowner in Leimert Park  
CD10

**Westwood South of Santa Monica Blvd**  
**Homeowner's Association**  
*Incorporated November 8, 1971*  
**P. O. Box 64213**  
Los Angeles, CA 90064-0213

April 18, 2018

Los Angeles City Council  
Public Works and Gang Reduction Committee  
c/o Michael Espinosa via email: [Michael.espinosa@lacity.org](mailto:Michael.espinosa@lacity.org), [cityclerk@lacity.org](mailto:cityclerk@lacity.org)

RE: Council File 17-1342-S1 (Boring Company Tunnel Project)

Dear Chairperson Bob Blumenfeld and Committee Members Joe Buscaino, Nury Martinez, David Ryu and Monica Rodriguez:

The Boring Company's "Proof of Concept Tunnel Project" which your committee is to consider today is a project that has moved forward without public discussion or review. The entry point for boring falls within the Westwood South of Santa Monica Homeowner Association area and we only learned about the project and of your pending consideration late yesterday. The project was not brought before the Westside Neighborhood Council whose area the project will also be located. It could be said that this project, a transportation tunneling project is being moved forward in the dark. We learned that the haul route hearing to allow for the removal of 80,000 cubic yards of dirt has already been conducted and a route approved. A Notice of Exemption was issued by the Board of Building and Safety Commissioners and is being heard in your Committee today. This is of great concern to our community.

It seems quite obvious that this project is far more than a public works demolition and excavation project. With its request for excavation permits through the Bureau of Engineering and approval through your Committee, this project is being treated as though it was a sewer project. However, this is a TRANSPORTATION project – the construction of a phase of Elon Musk's Boring Company's hyperloop project. To present it without consideration as a transportation policy and to move it forward as though it was a sewer project is entirely misleading, disingenuous and undermines credibility and trust between the City and its constituents.

While the project is being presented as a "proof of concept" effort apparently to attempt to avoid CEQA review, that status is subject to questioning. The project's initial 2.7 miles of tunnel are meant to connect with miles of tunnels part of a much larger project. Therefore, this effort to evade CEQA/environmental review appears to be an effort to piecemeal a large project specifically to avoid CEQA review. The entire project needs to be and should be studied. There has been virtually no public outreach to communities that will be impacted.

Of equal concern is the fact that efforts to expedite this project may have serious negative impacts on METRO's efforts to go forward with the identification and construction of its own Sepulveda Pass project in the most cost-effective and efficient manner. By permitting the Boring Company to bypass environmental review and to

begin work without collaborating with METRO, it is highly possible that the Boring Company's route will make METRO's future taxpayer-funded Sepulveda Pass initiative more expensive and more difficult to construct. A more shallow Boring Company tunnel will make it very difficult (if not impossible) to position station boxes (which require vertical installation) for any METRO underground transit in the vicinity of the Boring Company tunnel. Why should the Boring Company have priority in determining its route? Why would the City place METRO at a disadvantage by removing possible options from its set of alternative locations? (And why isn't the Boring Company being required to review alternative locations hand-in-hand with METRO?)

The voters of Los Angeles County acted to fund both Measures M and R to further transit development in the region. The Sepulveda Pass project is one of the key projects in this regionwide public transportation with stakeholders near and far acknowledging the importance of this critical link between the City and the San Fernando Valley – a link critical for moving commuters as well as larger vehicles moving goods north and south through the area. The chosen location for this project prohibits future use of this same location for the Sepulveda Transit Corridor project. Metro's high speed rail project is currently being reviewed through an environmental study process approved by voters in 2016 with taxpayer funding. The Boring Company project could result in significant unnecessary cost increases to any publicly funded project. METRO should retain jurisdiction over the routes of any proposed transit in this (and all) areas –and especially for projects already "sold" to the public.

While the are on Sepulveda Blvd. identified for tunneling entry just north of Olympic Blvd. is zoned M2/Light Industrial, the tunneling will soon go beneath residential properties. When METRO tunnels or builds transit lines, there is significant documentation as to the condition of adjacent properties so that any construction-related damage can be documented and property owners protected from any negative impacts. Where is the financial bonding or assurance that property owners (residential, industrial and/or commercial) will be protected should there be any damage caused by tunneling or the operation of the tunnel once completed? What does the City intend to require of the Boring Company in terms of pre-construction documentation, damage mitigation, etc.? We do not see language that would provide stakeholders with any assurances of financial responsibility on the part of the Boring Company. (And, given issues that have surfaced related to Tesla's difficulties in delivering their Sedan 3 and delays in battery production, what are the assurances that this company will have the resources to address any unanticipated difficulties?)

Language in the Council File motion is not encouraging: *"The City of Los Angeles is committed to closely monitoring any public safety issues and impacts to the neighboring community which may arise during the course of this project."* Monitoring does not address any problems that might be discovered. One of the key reasons for doing an environmental review through CEQA is to identify impacts and to define mitigations. Without a CEQA process the City is left without the discussion of potential problems and the analysis of alternatives and mitigations.

Should the City be concerned about the ability of the Boring Company to follow through on this project to completion? What if there are technical issues/problems? We note the recent New York Times article: "Tesla to Halt Production Of Model 3 Cars Temporarily." They are also having problems and delays in rolling out their cellular roofing tile –

currently a year behind schedule. The Boring Company was founded in late 2016. What will happen if the project is abandoned before it is finished? What if the company goes out of business or has unanticipated technical difficulties? Will the Boring Company be required to restore the area to its existing condition? What if there are huge delays? How wise is it to permit a project of this nature without geology, hydrology and seismic studies? If such studies are being conducted, they need to be circulated for review by experts and require a public comment period.

Finally, in addition to issues related to the piecemealing of this project, the exemption sought is based on a very precise calculation that is required to be within a 5-acre space. The tunnel is proposed to be 2.7 miles x 14-feet wide, which is just within the 5 acres. However, this calculation fails to take into account the fact that there must be an envelope with a buffer in tunneling for safety. The buffer zone is to assure that nothing goes into that space. When that buffer is included in the project's calculation it puts the entire project outside of the area allowed for an exemption.

We urge your Committee to take no action today and instead forward this project and Council File motion to the Transportation Committee. We also recommend that you suggest to the Boring Company that they work directly with METRO to assure that any future tunneling is done with METRO's full support.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, reading "Barbara Broide".

Barbara Broide  
President

Cc: Paul Koretz, CD 5  
Mike Bonin, CD 11