



February 21, 2023

Via Electronic Delivery

Planning & Zoning Commission,
City of Bee Cave
4000 Galleria Pkwy
Bee Cave, TX 78738

Re: Opposition to Item 8, Using Nature Preserve for a Bypass Route

Chair Crumbley and Planning Commissioners,

When the City Council purchased the Brown Property in 2017, it came with a commitment to the residents of the City of Bee Cave. The property was acquired with the specific purpose “to preserve open space, counter future dense development, and create options for [the City’s] connectivity plan along Little Barton Creek.”¹

And, to date, it has served that purpose, protecting wildlife and water quality from over development. Subsequently, the Bee Cave City Council proceeded with amending its [Capital Improvement Program](#) to make further investments in the Brown Property to make it . . .

a nature-based destination with corresponding educational, recreational, and gathering space components— in the spirit of the Ladybird Johnson Wildflower Center and Cibolo Nature Center.

Considering the moderate-to-high biodiversity of the native plants and wildlife to which the Brown Property provides habitat, that seems appropriate as the continued use for the Brown Property and the original intent of the City Council’s acquisition of it.² In addition to the site’s unique biodiversity, preserving the property, with its long, creekside border, supports enhances the City of Bee Cave’s ability to protect the water quality of Little Barton Creek.

Unfortunately, the City’s plans to pave over the northern part of the property puts this biodiversity, water quality, and the plans for a nature center at risk. In their report, the City’s environmental consultants cautioned the City Council:

¹ Comments from Council Member Monty Parker, <https://www.statesman.com/story/news/local/2017/09/28/bee-cave-purchases-44-acres-south-of-texas-71-no-plans-to-develop/10407439007/>

² See [Brown Property Environmental Site Assessment](#), commissioned by the City of Bee Cave, prepared by Ecosystem Design Group, dated October 14, 2021

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As the city of Bee Cave develops, more pressure will be placed on the Brown Property. Decision makers will need to balance competing priorities, in particular navigating the inherent conflict between development and operation of new transportation infrastructure and supporting healthy ecology.³

Simply put, a bypass route is not a compatible the original intent of the property to combat development pressures, nor is it compatible with the City's plans to make the Brown Property a nature preserve. If the City of Bee Cave is serious about its vision to make the Brown Property a nature preserve comparable to the LBJ Wildflower Center or Cibolo Nature Conservancy, it will need every acre of land available.

While the site features moderate to high biodiversity, there are already signs of degradation caused by invasive species, which is characteristic of a site being encroached upon by development along its edges. Also, at 44 acres, the Brown Property is already *relatively small* for conservation standards. Most nature conservancies limit the amount of land that may become developed or used for programming, with the understanding that development and human activity compacts soils, creates risk of the introduction of invasive species, and harasses native wildlife.

Roadways, especially, create enormous risk of environmental degradation. The City's consultants were particularly concerned with the idea of paving a new road across the Brown Property, stating:

Roads influence stormwater behavior and water quality, act as a vector for invasive species, and increase noise and light levels thus impacting wildlife behavior and visitor experience. . . As noted in the site assessment, there is already run off and signs of erosion from the north. Stormwater runoff will increase as development increases.

No matter where the road is placed on this 44-acre site, it will damage the environmental quality of the site and harm the investment that its taxpayer's made in the acquisition of the site to counter growth and preserve open space. Instead, the City should pursue alternatives, such as diverting traffic to existing roads to the north of SH 71, to provide residents local-road access to shopping centers. There is no need for thru-traffic over and across the Brown Property. It is easily avoidable, less expensive for taxpayers by using existing infrastructure, and can accommodate the same amount of traffic.

The lack of alternative analysis highlights legal concerns under Chapter 26 of the Texas Parks and Wildlife Code. Pursuant to §26.001, a municipality cannot approve any project "that requires the use or taking of any public land designate and use prior to the arrangement of the program and project as a park, recreation area, scientific area, wildlife refuge, or historic site, unless the [municipality], determines that:

³ *Id.* at Page 28.

- (1) there is no feasible and prudent alternative to the use or taking of such land; ***and***
- (2) the program or project includes all reasonable planning to minimize harm to the land, as a park, recreation area, scientific area, wildlife refuge, or historic site, resulting from the use of taking.” (emphasis added)

Such findings must be made after a properly noticed public hearing. Since the City’s acquisition of the Brown Property, it has been designated and used for the protection of open space and wildlife habitat. There has been no public hearing concerning the potential use or taking of this land; there has been no publicly articulated alternatives for the use or taking of this land; and there has been no City Council declaration that there is “no feasible and prudent alternative to the use or taking of such land.”

Planning Commissioners, please vote no on including this unnecessary and environmentally harmful roadway in the City’s plans. Please demand that the City Manager go back to the drawing board and consider options that avoid environmental takings and would better protect the investment that the 2017 City Council made in protecting the Brown Property and Little Barton Creek from overgrowth and the related pollutants that are generated from stormwater runoff.

Thank you for the consideration, and please feel free to contact us if you have any questions or would like additional information about the Chapter 26 process.

Best Regards,

Bobby Levinski
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**Please note that I originally took on this item as part of my private practice (receiving no compensation) and have since transferred the matter to the Save Our Springs Alliance (where I now work) because this is an important issue for the preservation of water quality in the region and the protection of public land.*