



## Brook Creek Neighborhood Association

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Lawrence City Commission  
City Hall, 6 East 6th St.  
Lawrence KS 66044

13 October 2015

re: Final Plat of Burroughs Creek 2nd Addition, 12th & Haskell Ave.

Mayor Amyx & Commission:

For seven years, Mr. Bo Killough operated an illegal industrial salvage operation as a non-conforming open use of land at 12th & Haskell Ave. He was cited by KDHE for polluting the site, caused six automobile fires, shook our residential neighborhood with crushing machinery noise, and did so with complete disregard for our right to peaceably enjoy our properties. With this Final Plat of Burroughs Creek 2nd Addition, he reneges on his 2013 commitment to donate Tract A to the City for parkland, as he said he would in the Preliminary Plat. Please do not accept the dedication of easements and right-of-way unless the Note #10 from the Preliminary Plat is reinstated, donating Tract A to the City for parkland. We do not trust Mr. Killough's intentions for future use of this tract.

In 2003, Mr. Killough began operating the 12th & Haskell Bargain Center on the the subject property of this plat. He applied for a non-conforming use permit, stating he would use the property for "purchasing returned or rejected housewares and outdoor appliances and furniture, and salvaging such items to reassemble and sell". In 2005, Mr. Killough illegally expanded his business beyond the permitted limits into an industrial salvage yard, a location immediately adjacent to residential zoning (see attached photos).

For seven years, our neighborhood tried to get the Planning Director to enforce relevant sections of the Development Code, specifically Sec. 20-1502(d) that states "A non-conforming industrial or commercial open-use-of-land shall be discontinued by November 1, 2008", as well as instruct his own Code Enforcement Manager to enforce the Notice of Violation of 4 May 2010. Instead, the Director of Planning chose to give more time to Mr. Killough to make the violations legit by way of a site plan. It wasn't until 5 April 2012 that our neighborhood secured a favorable ruling from the Board of Zoning Appeals, confirming our view that Mr. Killough was operating illegally. In 2013, he finally moved his scrap business to a legally zoned location on 11th St.

So it was with great relief, when our neighborhood learned later in 2013, that Struct/Restruct Construction was purchasing the property at 12th and Haskell. They were very considerate to place many zoning use conditions on the industrially zoned Lot #1 where their business now operates. Their construction business is a good neighbor, and they planned to build eight homes along 12th St.

As the prospective purchaser of the property, Struct/Restruct submitted zoning and preliminary plat applications for BK Rentals LLC, property owner of record (Bo Killough). The Tract A application was for OS open space, which Struct/Restruct intended to donate to the City for parkland.

To date, every comment and every official document has stated that Tract A would be donated to the City for parkland. As such, this commitment is by the property owner of record, Bo Killough as follows:

- At the Planning Commission on 21 October 2013, applicants and spokespersons for Bo Killough, Eric Jay and Matt Jones said they were going to “donate a little over 2 acres to the City for a park or outdoor recreational facility” (Tract A).
- The staff report on 21 October 2013 for the Preliminary Plat states “This tract is planned to be donated to the City as parkland”.
- Under General Notes on the face of the Preliminary Plat, Note #1 reads: “Owner - BK Rentals LLC”. Note #10 reads: “Tract 'A' will be donated to the City of Lawrence for the development of park land and open space. The City is responsible for establishing ownership.”
- The staff report also describes said Tract A as being in conformance with maps and policies in the Comprehensive Plan for parkland and open space, and in conformance with Chapter 9 on Open Space saying “It is recommended that areas of the city subject to extensive and/or frequent flooding be a part of this open space network”.
- Planning staff has explained the “tail” projecting from the north west corner of Tract A is intended as an access easement for a shared-use trail connecting to the Burroughs Creek Trail just to the west at Haskell Ave. (see attached maps)
- Brook Creek Neighborhood has been in discussions with Parks & Recreation about developing the shared-use trail through Tract A, and they intend to place a bridge across the Burroughs Creek at the end of the “tail”.

The entirety of the above commitment by Mr. Killough has been summarily dismissed in the Planning Director's Administrative Determination for the current Final Plat of Burroughs Creek 2nd Addition. One of the notes portrays the above commitment as only so much discussion: “There have been discussions of donating the tract to the City for parkland so the shared use path could be extended through the area; however, this has not been finalized at this time.” Another note reads: “As the plans to develop a shared use trail/park in Tract A have not materialized, the pedestrian access is not being provided”. These failures by Mr. Killough of his land donation not being “finalized” or the trail not “materializing” are called “minor technical changes” by the Planning Director. In fact, these are major deviations from the Preliminary Plat, making the Final Plat substantially out of compliance with the Preliminary Plat.

Our neighborhood is very concerned that Struct/Restruct has not purchased Lots 2 through 9 nor Tract A, and that they remain in possession of Mr. Killough (BK Rental LLC). Mr. Jay and Mr. Jones may have had good intentions to donate Tract A to the City for parkland, but given Mr. Killough's checkered reputation, such good intentions cannot be expected of him. The OS zone land uses that he could engage in on Tract A could include: active recreation (eg. a go-cart track), spectator sports (crowd noises), microwave tower (remember Verizon), and a campground (like K.O.A.), among others. From the outset, Brook Creek Neighborhood requested that this land be a public park.

Under Notes on this Final Plat #2, please remove the note reading:

TRACT 'A' WILL BE A PRIVATELY OWNED, DEDICATED DRAINAGE EASEMENT. THE DEVELOPER IS RESPONSIBLE FOR ESTABLISHING OWNERSHIP AND MAINTENANCE OF SAME VIA INDIVIDUAL OWNER MAINTENANCE OR MAINTENANCE BY OWNERS ASSOCIATION.

Please reinsert the note reading:

TRACT 'A' WILL BE DONATED TO THE CITY OF LAWRENCE FOR THE DEVELOPMENT OF PARK LAND AND OPEN SPACE. THE CITY IS RESPONSIBLE FOR ESTABLISHING OWNERSHIP AND MAINTENANCE OF SAME.

Sincerely,  
Byron Wiley, Vice President



