

AGENDA
CITY OF SHAWNEE
ZONING BOARD OF ADJUSTMENT
September 21st, 2017 at 2:30 P.M.,
Commission Chambers
at City Hall, 16 W. 9th St.

- 1) Roll Call

- 2) Approval of the minutes from the May 18th, 2017 Zoning Board of Adjustment meeting

- 3) Case #Z03-17: 4920 N. Auto Mall Drive, Shawnee, OK

Applicant: Vital Signs of Oklahoma

A public hearing for consideration of the following requested variances:
 1. The allowance of a 100' flagpole on the subject property.

- 4) New Business/Planning Director's report

- 5) Adjournment

ZONING BOARD OF ADJUSTMENTS

DATE: May 18th, 2017

The Zoning Board of Adjustment met at a scheduled meeting on Thursday, May 18th, 2017 at 2:30 p.m. in the Commission Chambers at City Hall, Shawnee, Oklahoma, Pottawatomie County, pursuant to notice duly posted as prescribed by law. Justin Debruin, Planning Director for the City of Shawnee, presented the staff reports. Staff reports are available upon request.

AGENDA ITEM NO. 1: Roll Call

Upon roll call the following members were present: Mat Thomas, Jim Cooper and William Kirkland

A quorum was declared present.

NOTE: Tom Bierd and Mark Cannon were absent.

AGENDA ITEM NO. 2: Approval of the March 16th, 2017 Zoning Board of Adjustment meeting minutes

Commissioner Thomas made a motion to approve the minutes, seconded by Commissioner Cooper.

Motion carried:

AYE: Thomas, Cooper, Kirkland

NAY: None

ABSTAIN:

AGENDA ITEM NO. 3: Case #Z02-17 – Northeast corner of North Harrison and Transportation Parkway, Shawnee, OK

A public hearing for consideration of the following requested variances:

- 1. A request to exceed the maximum building height limit of 45' established for the C-3 (Highway Commercial) zoning district.**

Applicant: Prestige Hotels, LLC

Commissioner Thomas asked for the staff report. Justin Debruin presented staff report. Mr. Debruin informed the Commissioners on the request from applicant and described the location.

Justin Debruin mentioned process for other cities regarding height variances and stated there is no issue with Staff due to other similar requests being granted. Staff has no objection and offered to answer any questions. Commissioner Kirkland mentioned the number of rooms and found the number of parking spaces to be adequate. Commissioner Thomas asked if there were any other questions. There were none and Commissioner Thomas made a motion to approve, seconded by Commissioner Cooper.

Motion passes:

AYE: Thomas, Cooper, Kirkland

NAY: None

ABSTAIN: None

AGENDA ITEM NO. 4:

New Business/Planning Director's Report

No new business.

AGENDA ITEM NO. 5:

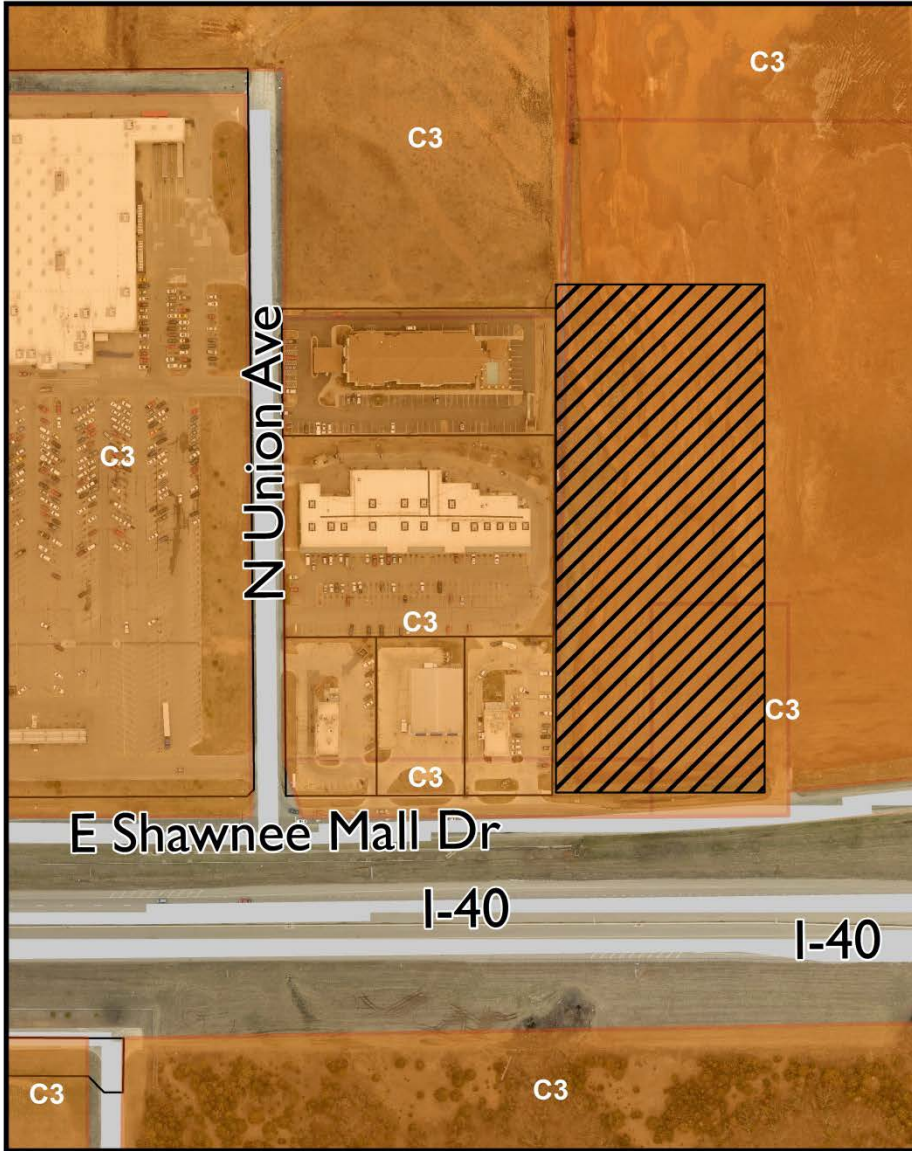
Adjournment

Meeting was adjourned.

Chairman/Vice-Chairman

Cheyenne Pettigrew

Zoning Board of Adjustment Secretary

City of Shawnee Planning Department 222. N. Broadway Shawnee, OK 74801 (405) 878-1616 Fax: (405) 878-1587 www.ShawneeOK.org				CASE # Z03-17 PUBLIC HEARING DATE: September 21, 2017	
APPLICANT: Vital Signs of Oklahoma		3728 E. 2 nd St., Ste A Edmond OK 73034		405-348-7227	
PROPERTY ADDRESS/LOCATION: 4920 Auto Mall Drive Shawnee, OK 74801					
BRIEF SUMMARY OF REQUEST: The applicant, Vital Signs of Oklahoma, has submitted a request to exceed the maximum sign height established for the C-3 (Highway Commercial) zoning district. The intent is to install one (1) 100' Flag pole to be placed on the Chevy Dealership located at 4920 Auto Mall Drive. Per the City of Shawnee Sign Code, within ¼ mile of Interstate – 40, sign height allowance shall not exceed forty (40') feet. Elsewhere, sign height is restricted to twenty (20') feet.					
EXISTING ZONING: C3	EXISTING LAND USE: Vacant	SURROUNDING ZONING & LAND USE: C-3 (Highway Commercial) PUD (Planned Unit Development)		PROPERTY SIZE: 2.6 Acres	

STAFF ANALYSIS

After reviewing City code and comparing with multiple municipalities in Oklahoma (Exhibit 2), Staff has determined that a flag pole shall conform to the advertising and signage regulations of the City of Shawnee (Shawnee Municipal Code, Chapter 3). Per Section 3-190(e)(1)(b), maximum sign height shall not exceed forty (40') feet where abutting Interstate-40.

To provide a better understanding of this decision, I would like to provide three definitions, per Section 3-1 of the Sign Code :

1. *Banner* means any pennant, streamer, flag, sign, picture, figure or other object, regardless of the materials of which it is made, which is suspended or otherwise designed for decoration or advertisement or to attract the attention of passersby; excepting, however, official warning devices, public service facilities, streetlights and similar safety devices. (Section 3-1).
2. *Sign* means any structure or part thereof or any device permanently or temporarily attached to, painted on, supported by or represented on a building, fence, post or other structure, which is used or intended to be used to attract attention. The term "sign" does not include a flag, pennant or insignia of any nation, association of nations, state, city or other political unit.
3. *Decorations, insignias and flags.* . Decorations, insignias and flags shall be exempt from this chapter in accordance with the following:
 - a. *Seasonal decorations.* Decorations pertaining to recognized national, state and local holidays and observances, provided that such decorations shall not be erected earlier than six weeks prior to the holiday or observance, and the decorations shall be removed no later than two weeks after the holiday.
 - b. *Insignias and flags..* Such insignias, flags and emblems of the United States, the state and municipal and other bodies of established government or flags which display the recognized symbol of a nonprofit and/or noncommercial organization.

It is important to differentiate between the structural component (pole) and the United States flag, which is exempt from the Sign Code. The pole itself is regulated as a structure, but a physical flag is exempt from the size restrictions placed on other signs. After reviewing a variety of municipal codes in Oklahoma, flag poles are most commonly restricted by building height allowance within the associated zoning district – thirty-five (35') feet being the most common. In some cases, particularly around a highway, a conditional use permit process is available to request increased height.

Staff has reviewed this request with great caution, as the City of Shawnee has a history of preserving the highway visual corridor, particularly by regulating sign height, building height, billboards and other advertising. For the purposes of continuity, it must be added that current structures and signs along I-40 have been held to the forty (40') foot height standard. A one-hundred (100') foot flag pole would be double the height of existing structures.

Though this is a large flag, as pointed out in the definition of a banner, the intent of such flags can be deemed as advertising, attracting the attention of passer-by's.

Staff finds that an allowance up to forty (40') feet is generous, in accordance with other cities, and appropriate for the I-40 corridor.

APPROVE

**APPROVE WITH
CONDITIONS**

DENY

Staff has received no letters of protest from surrounding property owners.

**ATTACHMENTS:
Exhibit 1
Exhibit 2**

**SUBMITTED
PLANS**

**PUBLIC HEARING
PETITION/
APPLICATION FORM**

LEGAL NOTICE

LEGAL DESCRIPTION

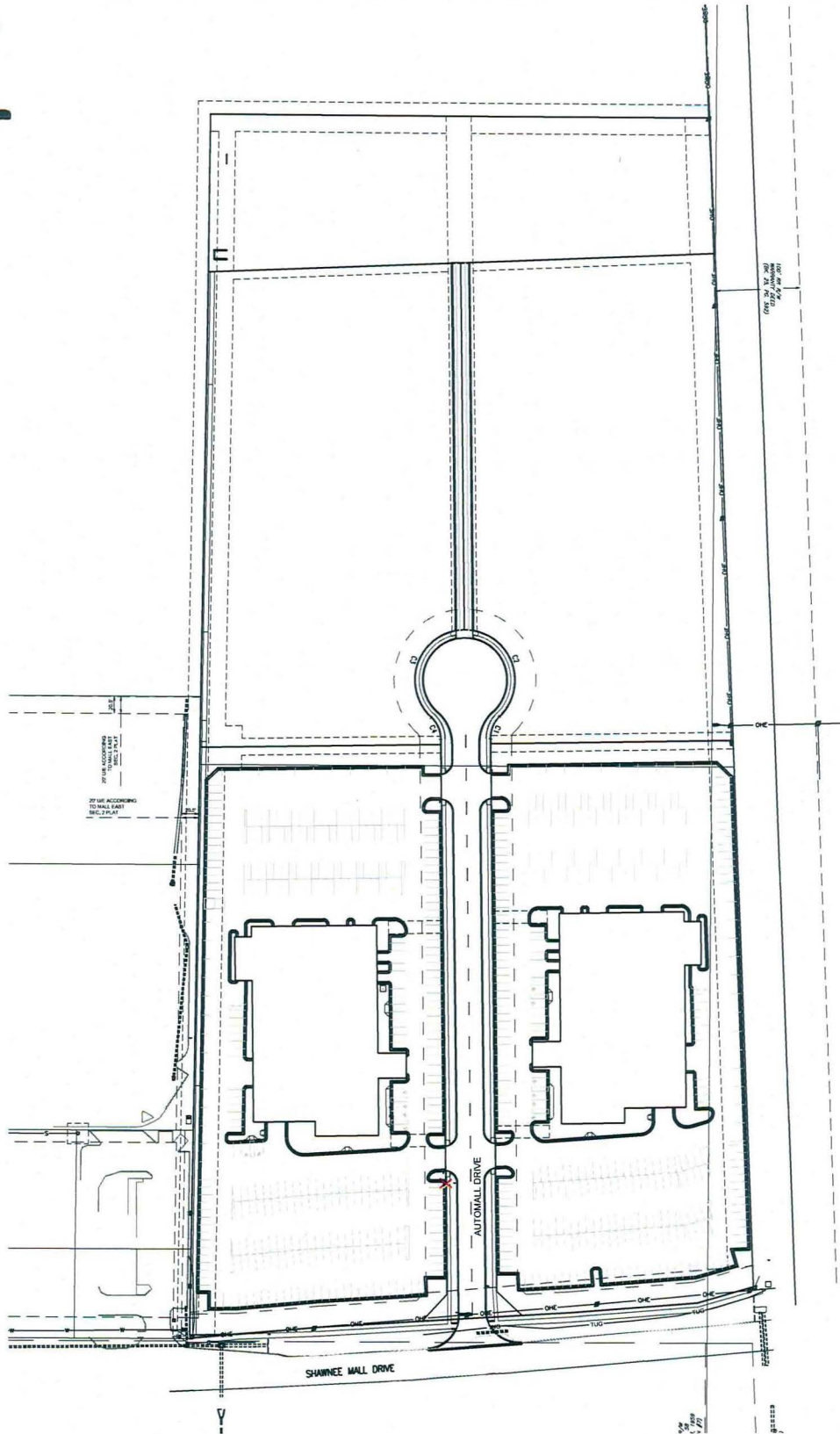
PUBLIC COMMENTS

AGENCY COMMENTS

RESPONSE TO STANDARDS

EXHIBIT

1



UTILITY STATEMENT: THIS SHOWN AS APPROXIMATE LOCATIONS ONLY. THE USER SHALL VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO ANY CONSTRUCTION. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR THE PROTECTION OF ALL UTILITIES. THE USER SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES. THE USER SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES.

DATE REVISION LEVY	DATE CHANGE ORDER NUMBER	HUNT-ZOLARS HUNT-ZOLARS, INC. Oklahoma City CA 1489 EXP. 6-30-19	2832 W. Wilshire Blvd. Oklahoma City, Oklahoma 73116 Phone (405) 842-0363 www.hunt-zolars.com
APPROVED BY SHAWNEE AUTO MALL ADDITION EAST MALL ROAD	DRAWN BY ROBERT D. J.		

EXHIBIT

2

Municipal Comparison of Flag Pole Regulations

Edmond, Oklahoma: Flags are viewed as accessory structures. Twenty (25') feet maximum height.

Owasso, Oklahoma: Flags are not regulated by a permit, but shall not exceed thirty-five (35') feet.

Muskogee, Oklahoma: Not to exceed ten (10') feet above the maximum permitted height in the zoning district.

Ada, Oklahoma: Poles may exceed building height when approved by the Community Development Director and certified by a professional engineer.

Chickasha, Oklahoma: Chimneys, elevators, poles, spires, tanks, towers and other projections not used for human occupancy may extend above the building height limit provided a zoning special exception permit is obtained.

Lawton, Oklahoma: General regulations state a maximum height of fifty (50') feet.

Mustang, Oklahoma: Chimneys, elevators, poles, spires, tanks, towers and other projections not used for human occupancy may extend above the building height limit.

Yukon, Oklahoma: Maximum height along I-40 corridor is thirty-five (35') feet unless approved by a conditional use permit.

Leavenworth, Washington: Flags are viewed as accessory structures. No higher than the maximum building height requirement for the associated zoning district.

Chesapeake, Virginia: Thirty (35') feet maximum height and requires a building permit.

Orem, Utah: Flag shall be no higher than the maximum building height allowance for that district.

CITY OF SHAWNEE
222 N. BROADWAY
SHAWNEE, OK 74801

PLANNING DEPARTMENT
PHONE: (405) 878-1665
FAX: (405) 878-1587

ZONING BOARD OF ADJUSTMENT
PROJECT NO. 170840 CASE NO. 203-17

NAME OF PROPERTY OWNER: Cooper SHAWNEE Chevy-Cadillac INV

ADDRESS: 4920 N. Auto Mall Dr

CITY: SHAWNEE STATE: OK ZIP CODE: _____

TELEPHONE: (405) 919-0282 (Tim Smith)

APPLICANT'S NAME: VITAL SIGNS OF OKLAHOMA

APPLICANT'S RELATIONSHIP TO OWNER (S): [CHECK ONE] SAME ☐ AGENT ☒

APPLICANT'S ADDRESS: 3728 E. 2ND ST., STE A

CITY: EDMOND STATE: OK ZIP CODE: 73034

TELEPHONE: (405) 348-7227

(PLEASE COMPLETE FOR THE PROPERTY THAT THE VARIANCE IS REQUESTED FOR.)

PROPERTY LOCATION (ADDRESS): 4920 Auto Mall Drive

LEGAL DESCRIPTION: Lot 1 Block 1 SHAWNEE Auto Mall Addition

(DIMENSIONS OF PROPERTY) AREA: 207,580 # WIDTH: 288'

LENGTH: 703' FRONTAGE: 331'

CURRENT ZONING: _____ CURRENT USE: Chevy-Cadillac Dealership

VARIANCE REQUESTED: 100' Flag Pole For United States Flag

[Signature]
APPLICANT'S SIGNATURE

(OFFICE USE ONLY)

Filed in the office of the Planning Department, 222 N. Broadway, this 15th day of August 2017

FILING FEE: \$90.00

RECEIPT NO: 02014257

ZBOA DECISION: _____

[Signature]
ZONING BOARD OF ADJUSTMENT SECRETARY

CITY OF SHAWNEE
PUBLIC HEARING NOTICE
CASE #Z03-17

Notice is hereby given that the Zoning Board of Adjustment of the City of Shawnee, Oklahoma, will conduct a Public Hearing to hear a request for a variance (as authorized under 1301.1.C Powers) to the City of Shawnee Zoning Code. This hearing concerns certain property located within the City of Shawnee, Oklahoma.

The property under consideration is described as follows:

A tract of land lying in the Northeast Quarter (NE/4) of Section Thirty-one (31), Township Eleven (11) North, Range Four (4) East of the Indian Meridian, Pottawatomie County, Oklahoma, having an assumed basis of bearing of North 89°38'30" East along the North line of said NE/4 and more particularly described as:
Commencing at the Northwest Corner (NW/C) of said NE/4; THENCE North 89°38'30" East along the North line of said NE/4 a distance of 1274.75 feet to a point on the West Right of Way line of the Atchison, Topeka, & Santa Fe Railroad; THENCE South 02°14'09" East along said right of way line a distance of 878.05 feet to the Point of Beginning; THENCE from said point of beginning continuing South 02°14'09" East along said right of way line a distance of 1397.62 feet to a point on the I-40 access R.O.W.; THENCE South 73°56'36" West along the North line of the I-40 access R.O.W. a distance of 69.74 feet; THENCE South 85°44'48" West continuing along the North line of the I-40 access R.O.W. a distance of 151.75 feet; THENCE South 86°57'57" West continuing along the North line of the I-40 access R.O.W. a distance of 99.80 feet; THENCE South 86°44'21" West continuing along the North line of the I-40 access R.O.W. a distance of 202.32 feet; THENCE South 84°57'40" West continuing along the North line of the I-40 access R.O.W. a distance of 97.78 feet; THENCE South 89°10'55" West continuing along the North line of the I-40 access R.O.W. a distance of 58.91 feet; THENCE North 00°55'25" East a distance of 1456.55 feet; THENCE South 89°42'29" East a distance of 598.32 feet to a point on said West Right of Way line of the Atchison, Topeka, & Santa Fe Railroad, said point being the point of beginning, containing 914,798.9283 square feet or 21.0009 acres, more or less.

A/K/A

All Lots and Blocks in SHAWNEE AUTO MALL, an Addition to the City of Shawnee, Pottawatomie County, Oklahoma, according to the recorded plat thereof.

GENERAL LOCATION: 4920 N. Automall Drive, Shawnee, OK

ZONING CLASSIFICATION: C-3; Highway Commercial District

The requested variance is as follows:

The allowance of a 100' flagpole on the subject property.

The public hearing will be held in the Commission Chambers, City Hall, 16 W. 9th St. Shawnee, Oklahoma on the 21st day of September at 2:30 p.m. At this time any interested citizen of Shawnee, Oklahoma will have the opportunity to appear and be heard with regard to the requested variance. Please call 878-1616 with any questions. A copy of the application is available during normal working hours in the Zoning Board of Adjustment Secretary's office located at 222 N. Broadway.

Witness my hand this 7th day of September, 2017.

Cheyenne Pettigrew
Secretary, Zoning Board of Adjustment

CASE # Z03-17
VARIANCE REQUEST
4920 AUTO MALL DRIVE



CERTIFICATE OF BONDED ABSTRACTOR (300 FEET RADIUS REPORT)

STATE OF OKLAHOMA)
) §:
COUNTY OF POTTAWATOMIE)

The undersigned bonded abstractor in and for POTTAWATOMIE County, State of Oklahoma, does hereby certify that the following Ownership is true and correct according to the current year's tax rolls in the office of the County Treasurer of POTTAWATOMIE County, Oklahoma, as updated by the records of the County Clerk of POTTAWATOMIE County, Oklahoma; that the owners, as reflected by said records, are based on the last conveyance or final decree of record of certain properties located within 300 feet in all directions of the following described land:

A tract of land lying in the Northeast Quarter (NE/4) of Section Thirty-one (31), Township Eleven (11) North, Range Four (4) East of the Indian Meridian, Pottawatomie County, Oklahoma, having an assumed basis of bearing of North 89°38'30" East along the North line of said NE/4 and more particularly described as: Commencing at the Northwest Corner (NW/C) of said NE/4; THENCE North 89°38'30" East along the North line of said NE/4 a distance of 1274.75 feet to a point on the West Right of Way line of the Atchison, Topeka, & Santa Fe Railroad; THENCE South 02°14'09" East along said right of way line a distance of 878.05 feet to the Point of Beginning; THENCE from said point of beginning continuing South 02°14'09" East along said right of way line a distance of 1397.62 feet to a point on the I-40 access R.O.W.; THENCE South 73°56'36" West along the North line of the I-40 access R.O.W. a distance of 69.74 feet; THENCE South 85°44'48" West continuing along the North line of the I-40 access R.O.W. a distance of 151.75 feet; THENCE South 86°57'57" West continuing along the North line of the I-40 access R.O.W. a distance of 99.80 feet; THENCE South 86°44'21" West continuing along the North line of the I-40 access R.O.W. a distance of 202.32 feet; THENCE South 84°57'40" West continuing along the North line of the I-40 access R.O.W. a distance of 97.78 feet; THENCE South 89°10'55" West continuing along the North line of the I-40 access R.O.W. a distance of 58.91 feet; THENCE North 00°55'25" East a distance of 1456.55 feet; THENCE South 89°42'29" East a distance of 598.32 feet to a point on said West Right of Way line of the Atchison, Topeka, & Santa Fe Railroad, said point being the point of beginning, containing 914,798.9283 square feet or 21.0009 acres, more or less.

A/K/A

All Lots and Blocks in SHAWNEE AUTO MALL, an Addition to the City of Shawnee, Pottawatomie County, Oklahoma, according to the recorded plat thereof.

and find the following owners, addresses and brief legal descriptions on the attached pages numbered from (1) to (3), both inclusive.

NOTICE TO CUSTOMERS: This report is released with the understanding that the information is strictly confidential. This report contains information from public land records only and is not to be construed as an abstract of title, opinion of title, title commitment, title insurance policy, or environmental research report. As used herein, the term "public land records" means those land records which under the recording laws of the applicable state, impart constructive notice to the third parties with respect to recorded, unreleased or record instruments memorializing legal interests in real estate. The company suggests that you contact your attorney for matters of a legal nature or legal opinion. We have exercised due care and diligence in preparing this report, however, the Abstractor does not guarantee validity of the title and acceptance of this report by the Company or person(s) for whom this report is made, constitutes agreement and confirmation of the limitation of this report.

Dated: June 27, 2017 at 7:30 AM

First American Title & Trust Company

By: 
Michelle Cook

Abstractor License No. 3286

OAB Certificate of Authority # 017

File No. 2251557-SH99

OWNERSHIP LIST**ORDER NO. 2251557**

DATE PREPARED: July 5, 2017

EFFECTIVE DATE: June 27, 2017

OWNER	LOT	BLK	ADDITION
COOPER SHAWNEE INVESTMENTS, LLC % C. W. EVANS 6601 SE 29TH STREET MIDWEST CITY, OK 73110			BEG SW/C NE/4 N339.73' E562.16' N88*E111.51' E78' N84*E97.78' N86*E 202.32' N86*57'E99.8' N85*E123' N73*E67.07' S3*E405.54' W1369.24' POB
COOPER SHAWNEE INV LLC P.O. BOX 21748 OKC CITY OK 73156-0000			BEG 1274.75'E & 878.05'S2*14'9"E OF THE NW/C NE/4 S2*14'9"E358.47' W618.08' N358.14' E598.32' POB
DOCKREY FAMILY 2014 REV TRUST 6203 COKER RD SHAWNEE OK 74804-0000			10-SR W1/2 NE LESS TR BEG 1563.65'S NW/C NE E660' S660' W660' N660' POB. & LESS HWY LESS TR REC 2003 13648 & LESS REC 2003- 18482 & LESS .56AC TO STATE REC 2005-2374 LESS .38AC OF NEW R.O.W. & 10.62AC OF R.O.W OCCUPIED BY PRESENT HWY REC 2005-11052 & LESS 16.22AC DESCRIBED IN WD 2013-20858 & LESS 5.09AC 2014-13750 & LESS A 2 ACRE TRACT 2016-6468
SHAWNEE HOTELS INC 118 N 7TH ST DURANT OK 74701-0000	1	1	MALL EAST 1
SFP POOL TWO SHOPPING CENTERS 17800 LAREL PARK DR NORTH STE 200C LIVONIA MI 48152-0000	2	1	MALL EAST 1

JOHNSON JEROME L & SHIRLEY JUN 2009 REVOCABLE TRUST 5110 N HARRISON SHAWNEE OK 74804-0000			31-11-4 PT OF SE NE LESS HOLIDAY HOTEL 5.61 AC 1 PARCEL DES AS COM AT SE/C NE TH N ALG THE EAST LINE OF NE/4 1110.13' TH W 586.57' TO POB TH S 630.75' TO A POINT ON NORTHERLY R/W OF INT 40 TH S 70*W ALG R/W 225.90' ETC PACEL CONTAINS 9.409 AC M/L AND 1 PARCEL DES AS COMM AT SE/C NE N 1110.13' W 50.08' TO A POINT LYING ON THE WESTERLY R/W LINE FOR STATE HWY 18 ALSO BEING THE POB TH S 05*W ALG R/W 101.51' TH W 141.51' TH S 45* W 14.38' ETC CONTAINING 0.417 ACRES M/L LESS .24 AC TO STATE LESS .16 AC TO STATE
JOHNSON JEROME L & SHIRLEY JUN 2009 REVOCABLE TRUST 5110 N HARRISON SHAWNEE OK 74804-0000			BEG 48'W & 1285.62'S NE/C E/2 NE W1176.82' TO THE E R/W LINE OF AT&SF RR S ALG RR 303.70' E1143.52' N4*E240.34' N63.37' POB POB LESS .16 TO STATE
CANADIAN VALLEY ELECTRIC COOPERATIVE INC P O BOX 751 SEMINOLE OK 74868-0000			BEG 73'W & 392.96'S NE/C E/2 NE W750.1' N393' W452.12' S02* 46'E1264.59 E1155.34' N40.21' N05*14' 55"E144.57' N707.95' POB
EASTERN OKLA RR A/K/A - ATCHISON, TOPEKA & SANTA FE RAILROAD PUBLIC SERVICE SHAWNEE OK 74801-0000			A STRIP OF LAND 100 FEET IN WIDTH OVER AND ACROSS THE NORTHEAST QUARTER (NE4) OF SECTION THIRTY-ONE (31), TOWNSHIP ELEVEN (11) NORTH, RANGE FOUR (4) EAST, INDIAN MERIDIAN, POTTAWATOMIE COUNTY.
RUBINSTEIN BERNIE FAMILY TRUST 511 N CANON DR BEVERLY HILLS CA 90210-0000	3	1	MALL EAST 2
COLE AN PORTFOLIO II LLC % AARONS # 661 % MARVIN F POER & CO P O BOX 52427 ATLANTA GA 30355-0000	4	1	MALL EAST 2

KFC US PROPERTIES INC % KFC Y300036 P O BOX 35370 LOUISVILLE KY 40232-0000	5	1	MALL EAST 2
STATE (ODOT) 200 NW 21ST OKLA CITY OK 73105-0000			THAT PORTION OF LAND THAT ABUTS ON THE SOUTH OF THE FOLLOWING TWO TRACTS OF LAND: LOTS 3-5, BLK 1 OF MALL EAST SECTION 2 AND BEG SW/C NE/4 N339.73' E562.16' N88*E111.51' E78' N84*E97.78' N86*E 202.32' N86*57'E99.8' N85*E123' N73*E67.07' S3*E405.54' W1369.24' POB (31-11N-4E)