

RESOLUTION

Supporting Redevelopment of the Former ShopKo Stores Site

WHEREAS, the City of Manitowoc (the “City”) supports the responsible development of commercial properties within the City in accordance with its ordinances and the state Statutes;

WHEREAS, the City is informed that the current owners of two parcels, known as Lots 1 and 2, located generally at the southeast corner of the intersections of Highway 42 and 35th Street that was previously part of a larger parcel owned and operated by ShopKo Stores, Inc., seek to develop Lots 1 and 2;

WHEREAS, the City is also informed the current owners of Lots 1 and 2 filed a lawsuit in the Circuit Court for Manitowoc County, entitled *Andrew J. Behnke, et al. v. Manitowoc Associates, LLC, et al.*, 23-CV-56 (the “Behnke” case), seeking, in part, a declaration that real estate covenants in an Amended and Restated Operating Agreement, recorded on July 27, 1979 that restrict the construction of buildings on Lots 1 and 2, have expired and are unenforceable as a matter of law; and,

WHEREAS, the City deems it in its best interest that such real estate covenants that restrict the responsible development of Lots 1 and 2 within the City should be unenforceable.

NOW, THEREFORE, BE IT RESOLVED that the real estate covenants recorded against the former ShopKo site, and parcels within the site, should not restrict redevelopment of the site;

BE IT FURTHER RESOLVED, that the Office of the City Attorney for the City of Manitowoc is hereby authorized and empowered to appear in the *Behnke* case, join the Plaintiffs’ motion, and urge the Circuit Court to declare the real estate covenants unenforceable.

INTRODUCED _____ ADOPTED _____

Justin M. Nickels

APPROVED _____

Fiscal Impact: Anticipated None
Funding Source: N/A
Finance Director Approval: /SMA
Approved as to form: /EGN

This Resolution was drafted by Eric G. Nycz, Interim City Attorney