Proposed Partial Assignment of Servicing Agreement AG 4/2001 from 4293631 Manitoba Limited to Wal-Mart Canada Corporation

File DASZ 4/2001

6. The Standing Policy Committee on Property and Development has been advised that Council on June 20, 2001, approved an application under File DASZ 4/2001 to rezone land and create three commercial sites on the west side of McPhillips Street between Court Avenue and Templeton Avenue. Approval of File DASZ 4/2001 was subject to a number of conditions including that the developer enter into a Servicing Agreement with the City.

The Servicing Agreement dealt with the installation of services and modification of traffic signals in order to provide proper servicing and access for the three sites. Council on June 20, 2001, enacted the required subdivision/rezoning by-law, but the approved plan of subdivision will not be released for registration in the Land Titles Office unless and until the required Servicing Agreement has been executed by the Developer. It is expected that the draft servicing agreements will be presented to the Developer on or before March 29, 2002 for execution.

The Developer's solicitor has advised the Land Development Branch of the Planning, Property and Development Department, that the Developer has sold one of the sites to Wal-Mart Canada Corporation and the purchase and sale agreement provides for a partial assignment of Servicing Agreement AG 4/2001, from 4293631 Manitoba Limited to Wal-Mart Canada Corporation. to the extent that it affects Wal-Mart's site.

All Servicing and Development Agreements contain a provision that the Agreements are not assignable without the consent of the City first being had and obtained in writing which consent is not to be unreasonably withheld. Council has not delegated the authority for consenting to the assignment of servicing agreements.

The developer's request has been evaluated by the Administration and it has been determined that it would be in order to consent to the assignment. Prior to the issuance of a building permit to Wal-Mart Canada Corporation all payments and the posting of standby letters of credit.

The Standing Policy Committee on Property and Development recommends:

I. That the City consent to the partial assignment of Servicing Agreement AG 4/2001 from 4293631 Manitoba Limited to Wal-Mart Canada Corporation to the extent affecting the Wal-Mart site to the satisfaction of the City Solicitor/Manager of Legal Services.

II. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing, including the execution of any documents related thereto.

Copies of the documents referred to in the above clause are on file in the office of the City Clerk.