

**RESORT MUNICIPALITY OF WHISTLER**

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## STAFF REPORT TO COUNCIL

**PRESENTED:** February 6, 2024  
**FROM:** Planning - Projects  
**SUBJECT:** CANNABIS RETAIL TEMPORARY USE PERMIT (TUP00116) THE NEST FOR APPROVAL

**REPORT:** 24-016  
**FILE:** 7657.00

### RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

**That** the recommendation of the General Manager of Climate Action, Planning and Development Services be endorsed.

### RECOMMENDATION(S)

**That** Council authorize approval of Temporary Use Permit application TUP00116 for the Retail Sale of Cannabis in the Nesters Plaza Permit Area, for The Nest at #103 - 7015 Nesters Road, for a period of three years, subject to confirmation from the Liquor and Cannabis Regulation Branch (LCRB) of issuance of a Provincial cannabis retail store (CRS) licence and the applicant entering into a Good Neighbour Agreement (GNA) with the Resort Municipality of Whistler (RMOW); and

**That** Council direct staff to recommend to the LCRB that a CRS licence be issued to The Nest at #103 - 7015 Nesters Road; and further

**That** Council direct that a GNA for the application be finalized to the satisfaction of the General Manager of Climate Action, Planning and Development Services.

### PURPOSE OF REPORT

The purpose of the report is to present Council with the Temporary Use Permit (TUP) application TUP0016 for the retail sale of cannabis at 103-7015 Nesters Road, with a recommendation to authorize approval. The report presents an analysis of the location characteristics and measures the applicant proposes to address the guidelines in [Council Policy G-27: Cannabis Retail Policy](#) (Cannabis Retail Policy) and the requirements of relevant bylaws. The report also includes written submissions received in response to public notice requirements that were received before the report was finalized. Submissions received after the report cut off date will be circulated as late correspondence.

☐ Information Report

☒ Administrative Report (Decision or Direction)

## DISCUSSION

### **Background**

Whistler's Cannabis Retail Policy, adopted by Council on August 2, 2022, establishes a comprehensive approach for consideration of TUP applications for cannabis retail stores in Whistler in five designated TUP Areas. The Cannabis Retail Policy framework is drawn from the goals, objectives, and policies in Whistler's Official Community Plan (OCP). Following adoption of the Policy, staff brought forward enabling amendments to related bylaws:

- ["Business Licence and Regulation Bylaw No. 2353, 2019"](#)
- ["Liquor Licence and Cannabis Retail Licence Application Processing Fee Bylaw No. 2374, 2022"](#)
- ["Smoking Regulation Bylaw No. 2136, 2017"](#)
- ["Zoning and Parking Amendment Bylaw \(Cannabis Retail\) No. 2371, 2022"](#)

Whistler's approach to cannabis retail establishes a system that addresses the location and potential number of cannabis retail stores and serves to advance community priorities including health, safety, and community well-being, resort and community balance, climate action and sustainability and reconciliation. Recognizing the Resort Municipality of Whistler's (RMOW) limited land supply, growth management policies, and ongoing desire for a diverse and vibrant commercial sector, the TUP-based system retains discretionary approval for individual cannabis retail applications, providing reasonable access while limiting proliferation, so that cannabis retail is thoughtfully integrated within existing land use patterns, consistent with community objectives and land use planning in Whistler, and supportive of the goals, objectives and policies of the OCP.

A TUP is a municipal approval for a temporary land use that is not generally permitted within "Zoning and Parking Bylaw No. 303, 2015" (Zoning Bylaw) or for a particular zone. A TUP may allow commercial or industrial uses in a designated TUP Area and specify conditions under which the temporary use may be carried out. TUPs authorize the specific use for three years and can be renewed once for an additional three years. Once the initial six-year period is up, the RMOW could consider adding cannabis retail as an outright use in certain zones, authorizing the use permanently through a site-specific rezoning, or could consider an application for a new TUP. The TUP-based approach enables the RMOW to maintain discretion over the approval process and a degree of on-going oversight through permit conditions and renewal requirements, ensuring that cannabis retail is thoughtfully integrated into existing land use patterns, consistent with community objectives and supportive of the goals, objectives and policies of the OCP.

The Zoning Bylaw delineates five TUP areas (Village Centre, Village North, Creekside, Function Junction and Nesters Plaza) where the retail sale of cannabis may be allowed in Whistler; specifies that no more than one Cannabis Retail Sales TUP may be approved in each cannabis retail TUP area; restricts cannabis retail from fronting on the Village Stroll; and establishes a minimum distance of 300 metres between cannabis retail stores and schools and the Meadow Park Recreation Centre. These bylaw requirements were established to provide reasonable access to cannabis while limiting proliferation, and to maintain the family-friendly character of Whistler's commercial nodes.

The guidelines and evaluation criteria in the Cannabis Retail Policy are intended to further community priorities including health, safety, and community wellbeing, resort and community balance, and First

Nations reconciliation. Applicants were requested to submit a Community Impact Statement (CIS) outlining how the applicant proposes to address the evaluation criteria.

These bylaw requirements and policy guidelines regarding applicant procedures set out a clear and transparent process and retain discretionary approval with the RMOW for each individual application.

A defined intake window for applications was set for an initial batch review process in February and March of 2023. The RMOW received 10 applications in four of the five designated TUP Areas (no applications were received for the Nesters Plaza TUP Area). On June 20, 2023, Council approved four cannabis retail TUPs for cannabis retail sales ([Administrative Report No. 23-068](#)). As no applications were received in the Nesters Plaza TUP Area, cannabis retail TUP applications in this TUP Area could be received on an on-going basis.

### **Provincial Approval Requirement**

In addition to municipal approval, cannabis retail stores in BC must obtain a non-medical cannabis retail store (CRS) licence from the provincial Liquor and Cannabis Regulation Branch (LCRB). As part of the provincial application review process, the LCRB undertakes a security screening and financial integrity check of every applicant and notifies the relevant local government of the application.

The LCRB requires that a local government gather the views of residents on the proposed location of the cannabis business, and convey any comments received to the LCRB along with either a positive recommendation to approve the license or a negative recommendation to not approve the licence. The public notice conducted as part of the TUP application process addresses these requirements, along with the recommended Council resolution.

The LCRB maintains discretion to approve or deny a licence based on their review but will not issue a licence without a positive recommendation from the local government.

### **Analysis**

This section presents staff's assessment and recommendation for application TUP00116, using the same approach taken in the assessment of previous TUPs for cannabis retail applications (as outlined in [Administrative Report No. 23-068](#)). The TUP application is attached as Appendix A. The report presents staff's assessment of the application, including confirmation that it satisfies all bylaw requirements, a description of the proposed location, and analysis of the CIS in relation to the evaluation criteria established in the Cannabis Retail Policy:

- Balancing resort and community needs;
- Provisions for employee housing;
- Commitment to a Living Wage;
- Relationships with or support for community organizations;
- Leadership on sustainability and climate action, with additional reference to Whistler's Climate Action Big Moves Strategy, and Zero Waste Action Plan;
- Contributions to local economic development and overall character that promote a four-season family-friendly resort destination;
- Commitment to Whistler's community health and social strategy goals; and
- Commitments to reconciliation and providing economic opportunities for the Lil'wat Nation and Squamish Nation.

Evaluation of the CIS for TUP00116 is included in Appendix B. The application assessment is reviewed by criterion and is based on the rating system as presented in Table 1.

**Table 1. Interpretation**

Value	Interpretation
✓	Meets the criterion
Partial	Meets some aspects of the criterion
X	Does not meet the criterion

### Nester's Plaza Applications

TUP00116 is the only application that has been received for the sale of retail cannabis in the Nesters Plaza TUP Area, shown in Figure 1.

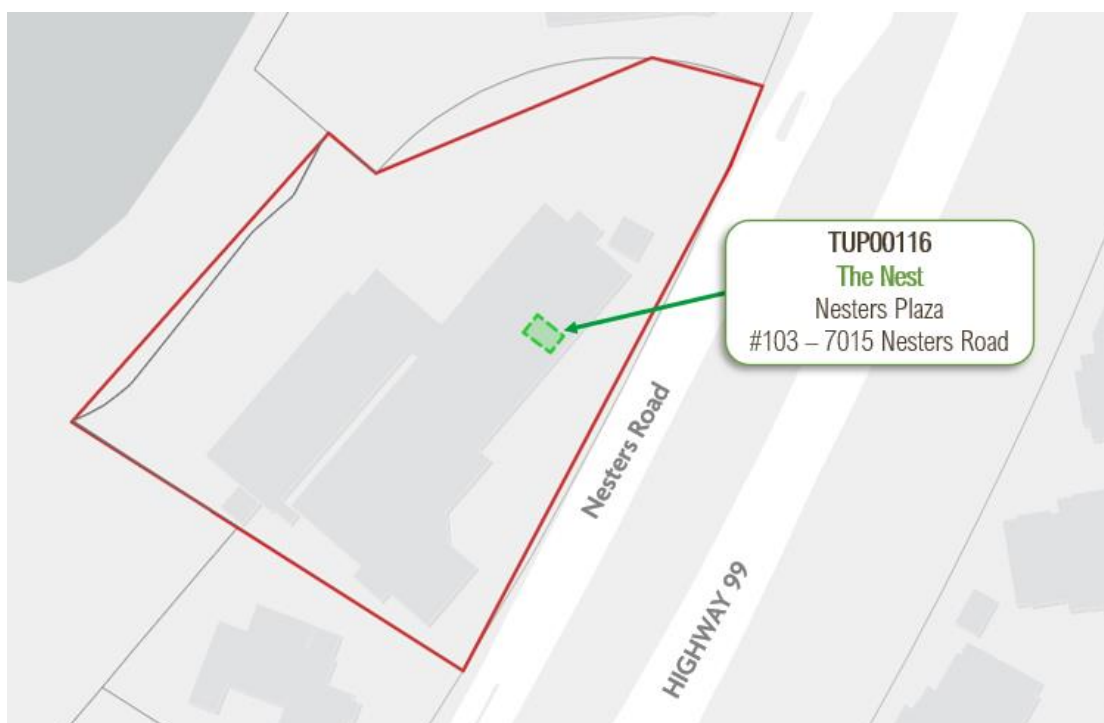


Figure 1: Nesters Plaza Cannabis Retail TUP Area Application for The Nest (TUP00116)

The following section provides staff analysis of the application review and recommendations. An evaluation table is included in Appendix B with this report.

### **TUP00116: #103 - 7015 Nesters Road**

#### Location Analysis

The proposed location is a commercial unit on the lower level of Nesters Plaza on the front (east-facing) open-air pedestrian walkway corridor. The corridor connects to a surface parking lot on the north side of the building and to the main commercial level of the plaza. The unit is the last accessible storefront at the end of the pedestrian corridor and is next to a café. The immediate area includes informal seating serving patrons from the café next door and opens above to other pedestrian-focused seating areas serving the plaza businesses at the main level above. A Location Map is attached as Appendix C.

The retail floor area is 50.44 m<sup>2</sup> (543 sq. ft). The floor plan identifies a service area with displays, a staff area, and a storage area. Store hours are proposed to be 9:30 a.m. to 11:00 p.m., seven days a week. The applicant anticipates a total of nine employees, with three employees staffing the store during operation hours. The store is located more than 300 metres from Spruce Grove, Meadow Park, and all schools.

The property is zoned [CL4 \(Commercial Local Four\)](#) which supports commercial uses and is in the [Commercial/Industrial Development Permit Area](#) (DPA). Nesters Plaza is a mixed-use building with two levels of commercial convenience businesses including groceries, liquor, restaurants, and personal services, and residential dwellings on the upper floors. A bus stop is located on Nesters Road directly in front of the plaza providing access to the main transit corridor. Convenient short-stay parking is available on-site and directly in front of the unit.

The location in Nesters Plaza is well situated on the lower-level pedestrian corridor. The surrounding area provides a general degree of surveillance for visual patrol and compatible convenience commercial uses.

The storefront design, including signage, would be regulated through the permitting and licence process and is subject to the [Commercial/Industrial DPA Guidelines](#).

The complete application submission for TUP00116, The Nest, is provided in Appendix A.

#### Community Impact Statement

The applicant has proposed measures to address community policy objectives within the CIS part of their application. These are presented in Table 2 below and reflect commitments made by the applicant for consideration of their application.

**Table 2. TUP00116 ‘The Nest’ Community Impact Statement Commitments**

<b>Commitment to Living Wage</b>	Wages between \$18-\$23/hour, salaried positions for management, extended benefits for full-time workers, opportunities for bonuses, and mountain passes.
<b>Provisions for employee housing</b>	Will provide profit sharing at 1.5 per cent of gross revenues on a monthly basis. This is offered as a supplement to address Whistler’s high housing costs.
<b>Commitment to reconciliation</b>	Will display land acknowledgment. Will donate seven per cent of net earnings to the Squamish Lil’wat Cultural Centre (SLCC) annually. Will offer support to Lil’wat Business Group to learn about participating in the cannabis industry. Will offer a Right of First Refusal to Lil’wat Business Group to invest in or purchase the business, should that opportunity arise.
<b>Relationship with community organizations</b>	Commitment to donate \$2,000 annually to each of AWARE and Pearl’s Space. Commitment to build ongoing relationships with other community organizations.

<b>Leadership on sustainability</b>	Applicant proposes to hire AWARE to provide an assessment of business operations and recommendations to improve environmental and sustainability performance.
<b>Security and nuisance mitigation</b>	Will post educational signage in-store about the Whistler's Smoking Regulation Bylaw. Will install and maintain an air filtration system to mitigate odour.

#### Summary of comments received during the notification period

In response to the Public Notice, two written submissions were received voicing opposition to the application, suggesting that a cannabis store in addition to the existing liquor store would negatively impact the plaza. The written submissions are included as Appendix D to this report.

#### **Staff Review and Recommendation**

Staff recommend that Council authorize the approval of TUP00116 for The Nest. The applicant has addressed the Cannabis Retail Policy evaluation criteria and has chosen a convenient location that provides good sightlines for visual patrol and visibility from the surrounding area while being unobtrusive.

The CIS outlines specific and general commitments that the applicant is prepared to undertake. These relate to staff wages and working conditions, support for and ongoing relationships with community organizations, and sustainability leadership. The applicant has indicated a commitment to reconciliation with an annual donation to the SLCC promised engagement with the Lil'wat Nation Business Group to advance economic opportunities, including right of first refusal to purchase or invest in the business.

Proposed wages are lower than the 2023 living wage of \$25.68 calculated for the Lower Mainland by the Living Wage for Families program, which is the nearest regional calculation for Whistler, however employees will receive additional income through the monthly stipend and delivery business, which supports cost of living in Whistler. The applicant has existing relationships with community organizations and has provided measurable commitments for ongoing support to AWARE and Pearl's Space (formally Howe Sound Women's Centre Society).

To address the commitment to reconciliation criteria, the applicant has committed to an annual donation to the SLCC of seven per cent of the store's annual net earnings. Separately, they have offered to share their expertise and experience in the cannabis retail and production industry with the Lil'wat Business Group and have offered a Right of First Refusal to the Lil'wat Business Group to invest in or purchase the business, should that opportunity arise.

Overall, the applicant has satisfactorily addressed the evaluation criteria. Should Council authorize issuance of the TUP for this store, the commitments will be subject to annual review and updates as part of the proposed Good Neighbour Agreement (GNA).

#### **Next Steps**

Should Council authorize approval of the TUP and direct staff to provide a positive recommendation to the LCRB, the RMOW will notify the LCRB, and prepare the TUP for issuance after receiving confirmation that the LCRB has approved a CRS licence and the applicant enters into the RMOW's GNA. Any offered involvement, donations, or support to First Nations would be subject to the First Nations endorsing any such donations.

The GNA (sample attached as Appendix E) includes the operator's commitment to operating in alignment with provincial and RMOW's laws, bylaws, policies and guidelines; taking responsibility for business impacts; proactively managing and educating patrons to ensure they cause no disturbance; and working collaboratively with the RMOW, the RCMP, and other community stakeholders. This report recommends that the GNA be finalized to the satisfaction of the General Manager of Climate Action, Planning and Development Services (GM CAPDS).

Following approval and issuance of the municipally approved TUP and provincial CRS licence, additional permits may be required, including a Development Permit, Building Permit, and Sign Permit. Exterior store design must comply with the [Commercial/Industrial Development Permit Area](#) guidelines, as well as with the regulations set forth by the LCRB. Before opening, the operator will be required to obtain an RMOW business licence.

The TUP term is three years, with the ability to renew for an additional three years. The renewal is subject to the discretion of Council and provides an opportunity to review the performance of the business relative to their commitments in the CIS and GNA. This allows the RMOW to maintain discretion over the approval process and a degree of on-going oversight through permit conditions and renewal requirements.

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## POLICY CONSIDERATIONS

### Relevant Council Authority/Previous Decisions

[June 20, 2023: Administrative Report No. 23-068](#) presented an overview of the 10 Temporary Use Permit (TUP) applications for the retail sale of cannabis received during the application intake period. The applications received and reviewed during the intake period were spread across four out of five of the designated cannabis retail TUP Areas. At this meeting Council authorized approval of TUP applications for the sale of retail cannabis in four TUP Areas to the following applicants:

- Village Centre: This is Cannabis (TUP00106) at #201 A&B, 4293 Mountain Square
- Village North: Main Street THC Canada Ltd (TUP00114) at #115, 4368 Main Street
- Creekside: Spiritleaf Whistler (TUP00109) at #103, 2011 Innsbruck Drive
- Function Junction: A Little Bud (TUP00107) at #1, 1050 Millar Creek Road

[December 20, 2022: Administrative Report No. 22-158](#) presented "Zoning Amendment Bylaw (Cannabis Retail) No. 2371, 2022" (Bylaw No. 2371) for consideration of third reading, and provided a summary of the verbal and written submissions made during the Public Hearing. Bylaw No. 2371 was subsequently adopted by Council.

[September 20, 2022: Administrative Report No. 22-130](#) proposed first, second and third reading of several bylaw amendments that were in alignment with the Cannabis Retail Policy G27 to introduce, permit and regulate cannabis retail stores in the Whistler community using TUPs. The proposed bylaw amendments were subsequently adopted.

[August 2, 2022: Administrative Report No. 22-116](#) presented the public engagement summary on the proposed approach to administer and regulate cannabis retail through TUPs in Whistler that took place over winter and spring 2022. At that meeting, Council adopted the [Cannabis Retail Policy](#), which provides clarity and direction for the intake, evaluation, and processing of cannabis retail applications; and directed staff to bring forward proposed bylaw amendments to allow for the sale of cannabis retail to be permitted and regulated in Whistler.

[December 7, 2021: Administrative Report No. 21-137](#) presented an overview of the recommended approach to permitting and regulating cannabis retail in Whistler, and sought endorsement of a work program and engagement strategy to bring forward an OCP-based framework outlining community goals and objectives through a dedicated policy and related bylaw amendments to guide consistent decision-making for regulation of cannabis retail in Whistler.

### **2023-2026 Strategic Plan**

The 2023-2026 Strategic Plan outlines the high-level direction of the RMOW to help shape community progress during this term of Council. The Strategic Plan contains four priority areas with various associated initiatives that support them. This section identifies how this report links to the Strategic Plan.

#### **Strategic Priorities**

☐ Housing

*Expedite the delivery of and longer-term planning for employee housing*

☐ Climate Action

*Mobilize municipal resources toward the implementation of the Big Moves Climate Action Plan*

☐ Community Engagement

*Strive to connect locals to each other and to the RMOW*

☐ Smart Tourism

*Preserve and protect Whistler's unique culture, natural assets and infrastructure*

☒ Not Applicable

*Aligns with core municipal work that falls outside the strategic priorities but improves, maintains, updates and/or protects existing and essential community infrastructure or programs*

### **Community Vision and Official Community Plan**

The OCP is the RMOW's most important guiding document that sets the community vision and long-term community direction. This section identifies how this report applies to the OCP.

Chapter 5: Land Use and Development addresses residential and tourist accommodation, commercial and industrial development, and agricultural and extractive uses. In particular, Goal 5.6 seeks to maintain a complementary balance of commercial land use to reinforce Whistler's mountain resort character, the needs of the community, and the local tourism economy.

- |           |           |   |
|-----------|-----------|---|
| 5.6.1     | Objective | Maintain a balanced supply of commercial and industrial space and associated land uses.   |
| 5.6.1.6   | Policy    | Evaluate any proposed rezoning for additional space or changes in use for consistency with the intended purpose and roles of the location, compatibility of the surrounding area, the potential displacement of other essential uses, and potential impacts on the vitality and success of other existing developments. |
| 5.6.3.2   | Policy    | Maintain the ambiance of Whistler Village as a people-friendly, pedestrian-oriented environment.  |
| 5.6.3.5   | Policy    | Ensure public spaces are safe and accessible to everyone, aesthetically pleasing and comfortable social spaces.   |
| 5. 6.3.19 | Policy    | Work to address potential impacts associated with federal legalization of cannabis.   |

The [Cannabis Retail Policy](#) implements the objectives in Chapter 6: Economic Viability. Goal 6.6 supports a vibrant, growing and successful local business community with the objective to strengthen support for local business through using land use and supporting programs, including the following relevant policies:

- |         |        |   |
|---------|--------|---|
| 6.6.1.3 | Policy | Support new and existing businesses that enhance the use of local Whistler skills and expertise and support the authentic mountain culture. |
| 6.6.1.4 | Policy | Explore opportunities to incorporate Squamish Nation and Líl'wat Nation owned and operated businesses into the local business economy       |

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## BUDGET CONSIDERATIONS

Staff time for development of the Cannabis Retail Policy and associated bylaw amendments was covered by the Planning Department budget. Application fees offset staff time reviewing and administering the TUP application, LCRB referral response and the costs of the required notifications.

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## LÍL'WAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the Líl'wat People, known in their language as *L'il'wat7úl* and the Squamish People, known in their language as the *Skwxwú7mesh Úxwumixw* to create an enduring relationship, establish collaborative processes for Crown land planning, achieve mutual objectives, and enable participation in Whistler's resort economy.

The Cannabis Retail Policy is consistent with the goals and objectives contained in OCP Chapter 3: Reconciliation with the Lil'wat Nation and Squamish Nation and OCP Chapter 4: Growth Management. Policy. Objectives and goals in Chapter 3 seek to involve Líl'wat Nation and Squamish Nation in meaningful participation, to strengthen cooperation, and opportunities for economic growth. Objectives and goals in Chapter 4 seek to work collaboratively towards the Squamish Nation and the Líl'wat Nation benefiting from the local tourism economy and complementary economic development and capacity building opportunities.

The Cannabis Retail Policy was referred to the Squamish Nation and Líl'wat Nation during research and policy development phase. The cannabis retail TUP notification for TUP0016 was referred through the Squamish Nation and Líl'wat Nation referral portals.

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## COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project:

☐ Inform      ☒ Consult      ☐ Involve      ☐ Collaborate      ☐ Empower

Notices were delivered to all addresses within 30 metres of the proposed location with information about the TUP application and the date for Council's consideration of the TUP. Notice was also posted in two consecutive editions of the Pique with similar information, and application materials have been made for viewing on the RMOW's [OurCity portal](#) and in person at Municipal Hall. These measures satisfy the requirements of "[Land Use Procedures and Fees Bylaw No. 2205. 2022](#)", Section 494 of the *Local Government Act*, and the LCRB's notification requirements. Written submissions received by the Public Notice deadline are included in Appendix D.

Additional community, industry, and stakeholder engagement was conducted during the development of the Cannabis Retail Policy. During development of the [Cannabis Retail Policy](#), staff engaged the community, prospective cannabis retailers, and stakeholder groups, to gather input and insight into cannabis retail in Whistler through a combination of online forums with industry, in-person meetings with key stakeholders, a public input period, and information sharing via the RMOW's website, supported by social media. The Cannabis Retail Policy was referred to the Squamish Nation and the Lil'wat Nation through their online referral portals. A summary of this engagement was presented on August 2, 2022 with [Administrative Report No. 22-116](#).

### Summary of written comments

During the TUP notification period, two written submissions were received opposing the application, suggesting that a cannabis store in addition to the existing liquor store would negatively impact the plaza. This submission is included in Appendix D.

### Response to public input

Whistler's Cannabis Retail Policy and bylaw amendments were crafted to address and mitigate community concerns. Locational guidelines and bylaw requirements restrict proliferation of cannabis retail by allowing no more than one store in each of the TUP Areas and create distancing requirements from sensitive land uses. The GNAs and application process which reviews the specific location, mitigate potential community impacts.

Written submissions received after finalization of this report will be included as late correspondence in the Council package.

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## REFERENCES

Appendix A – Application Materials for TUP00116 (The Nest)  
Appendix B - Application Evaluation Table  
Appendix C – Location Map  
Appendix D – Public Input Received During TUP Notification Period  
Appendix E – Draft Good Neighbour Agreement

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## SUMMARY

This report presents Council with a TUP for retail sale of cannabis application (TUP00116) for the Nesters Plaza TUP Area and recommends that Council authorize approval of the TUP, and that Council direct staff to recommend that the LCRB issue a CRS license for this location, and to finalize a GNA to the satisfaction of the GM CAPDS. The recommendation to authorize approval of the TUP is based on review and analysis of the application materials against Whistler's [Cannabis Retail Policy](#) and relevant bylaws.

The report also presents written comments received following issuance of public notice. Comments received after the report is finalized but before the end of the notification period will be distributed to Council as late correspondence.

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**SIGN-OFFS**

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