
BOARD OF VARIANCE / PARKING VARIANCE BOARD
APPEAL DECISION

Appeal No. Z355855 - 1817 West Broadway (Related to 2401 Burrard Street)

Appeal Section: 573(1)(a) Appeal of Decision - Cannabis Appeal
Legal Description: Lot H, Block 327, District Lot 526 and Plan VAP 20404
Lot Size: Irregular Lot.
Zone: C-3A
Related By-Law Clause: Section 11.6

Appeal Description:

Appealing the decision of the Director of Planning who refused Development Application No. DP-2021-00694 and a request to permit interior and exterior alterations and to change the use of approximately 890 sq. ft. health enhancement centre to a new Cannabis Retail Store, in this existing commercial building on this site.

Development Application No. DP-2021-00694 was refused for the following reasons:

- The proposed development does not comply with the regulations of the Zoning and Development By-law that affect the site.
- Objections have been received from neighbouring property owners.

Name of Appellant(s): Jag Sandher
Affinity Cannabis Store Inc.
14065 - 76 Avenue
Surrey, B.C.
V3W 6K7

This appeal was heard by the Board of Variance on February 22nd, 2022 and was **Disallowed (denied).**

Board's summary and decision based on the following:

- The Board's decision (3-2 majority of votes) was in agreement with the Director of Planning - and upheld the City's decision and refused Development Application No. DP-2021-00694.
- The majority of the Board Members did not find a site hardship to allow the proposed Cannabis Store to operate at 1817 West Broadway that is located and less than 300m away from nearby schools (Three nearby schools at 194m away from Lord Tennyson Elementary School, at 106m away from St. John's International High-School, and also at 38m away from Century High-School).

Note: Unless otherwise ordered by the Chief Building Official in writing, the owner(s) **must obtain a Development & Building Permit(s) within one-year from the hearing date** (on successful appeals / allowed appeals).

Signed: _____

Secretary to the Board of Variance

Appeal No. Z355855 - 1817 West Broadway (Related to 2401 Burrard Street) (Cannabis Appeal)

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Appeal Section: 573(1)(a) - Appeal of Decision (Cannabis Retail Store)
Legal Description: Lot H, Block 327, District Lot 526 and Plan VAP 20404
Lot Size: Irregular Lot.
Zone: C-3A
Related By-Law Clause: Section 11.6

Adjournment history:

This appeal was adjourned from January 11th, 2022 to March 08th, 2022 at the request of the Board of Variance **to seek legal-opinion for hearing this appeal.**

Appeal Description:

Appealing the decision of the Director of Planning who refused Development Application No. DP-2021-00694 and a request to permit interior and exterior alterations and to change the use of approximately 890 sq. ft. health enhancement centre to a new Cannabis Retail Store, in this existing commercial building on this site.

Development Application No. DP-2021-00694 was refused for the following reasons:

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Discussion:

Mr. Jag Sandher was present to speak in support of the appeal.

At the request of the Chair, the appellant agreed to dispense with the reading of the submission, which had been in the Members' possession prior to the meeting.

Mr. Sandher's initial comments were that they're looking for a 3 year approval as it's tied to the lease and the Broadway Subway Project. The Cannabis store will increase eyes on Broadway, which is what the City of Vancouver wants. There are letters stating a lot of vacant store fronts due to the construction project, losing around \$125k a year. St. John International school has been relocated, which is not within the 300 meter location. Century High School is mainly for homestays and adults. Lord Tennyson Elementary School is within 300 meters, but is separated by a major arterial. There were strong support from residents, with no letters received from any of the Schools, concerned parents, teachers, or principals.

The Director of Planning's Representative

Mr. Bosnjak's initial comments were that this was refused due to regulations and letters received. They are within 38 meters from Century High School, 106 meters from St John International School, and 194 meters from Lord Tennyson Elementary School, and they received letters of objection from the neighbourhood. The Director of Planning does not see a hardship, and cannot support the appeal.

The Board Chair stated that the Board's site office received thirteen (13) letters in Support, one of which is from the landlord, one (1) letter of concern and two (2) letters in opposition to this appeal.

The Chair stated that if there were any interested parties in the audience who wished to speak to this appeal, they should raise their hand to be recognized and when recognized, state their full name and address and spell their surname for the record.

There were no comments.

Final Comments:

Mr. Bosnjak had no final comments.

Mr. Sandher's final comments were that the hardship is due to the Broadway subway construction project. They're looking for a 3 year conditional approval which will be the end of the lease, as well as the construction project.

This appeal was heard by the Board of Variance on February 22nd, 2022 and was Disallowed.

Board's summary and decision based on the following:

- The Board's decision (3-2 majority of votes) was in agreement with the Director of Planning
- and upheld the City's decision and refused Development Application No. DP-2021-00694.
- The majority of the Board Members did not find a site hardship to allow the proposed Cannabis Store to operate at 1817 West Broadway that is less than 300m away from nearby schools (Three nearby schools at 194m away from Lord Tennyson Elementary School, at 106m away from St. John's International High-School, and also at 38m away from Century High-School).

NOTE: AUDIO recording of this appeal is available upon request and please contact the Secretary to the Board of Variance at (604) 873-7723.



November 26, 2021

Affinity Cannabis Store Inc.
5708 Knight Street
Vancouver, BC V5P 2V3

RE 1817 W BROADWAY, Vancouver, BC V6J 1Y5
Development Application Number DP-2021-00694

Please be advised that the Director of Planning has Refused DP-2021-00694 on November 24th, 2021 for the following reason(s):

- Zoning and Development By-law Regulations
- Objections received from notification

You may be eligible to appeal this decision to the Board of Variance within 30 days of the date of this letter. For more information please contact the writer.

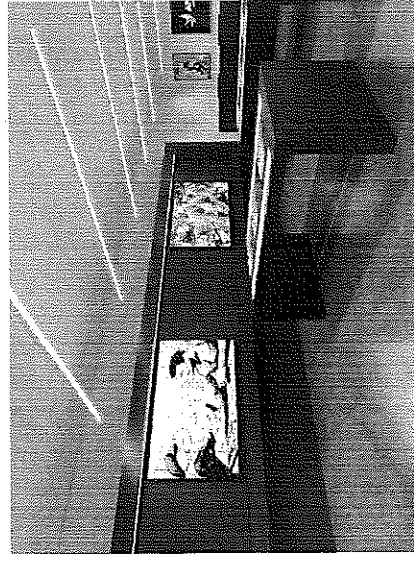
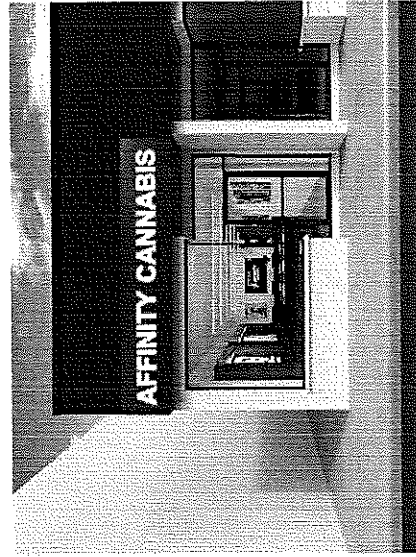
Yours truly,

Maitrayee Shah
maitrayee.shah@vancouver.ca
(604) 707-5407



1817 WEST BROADWAY

CITY OF VANCOUVER: VARIANCE PROPOSAL



Proposed Store Renderings At 1817 West Broadway

SUBMISSION SUMMARY:

Affinity Cannabis Store Inc. appeals the decision of the application rejected by the City of Vancouver for DP-2021-00694 for a cannabis retail store located at 1817 West Broadway.

Affinity appeals this decision because:

1. There are many examples of cannabis stores located closer than 300m to schools within Vancouver. These stores are successfully operating without causing a nuisance and are part of the community.
2. There was limited community feedback during the Development Permit process, with no feedback received from schools located less than 300m away from the subject site.
3. There is a liquor store located on the same site as the proposed cannabis retail store. Retail liquor stores are also licensed by the same authority as cannabis retail stores, the Liquor and Cannabis Regulation Branch (LCRB) and should be treated the same given the similarities with the land uses.
4. The construction of the Broadway Subway will provide a visual and physical buffer from sensitive uses until 2025.
5. The West Broadway corridor is a high-density corridor which is growing vertically. In an urban context it is difficult to meet locational requirements which are measured horizontally.
6. Distances using the system 'as the crow flies' do not account for actual distance from uses.
7. Vancouver's distancing rules are outdated because they are requirements made prior to legalization.
8. Affinity Cannabis Retail Store Inc. has operated in the City of Vancouver since 2020 and has not had any complaints. We are a reputable retailer that operates with professionalism.

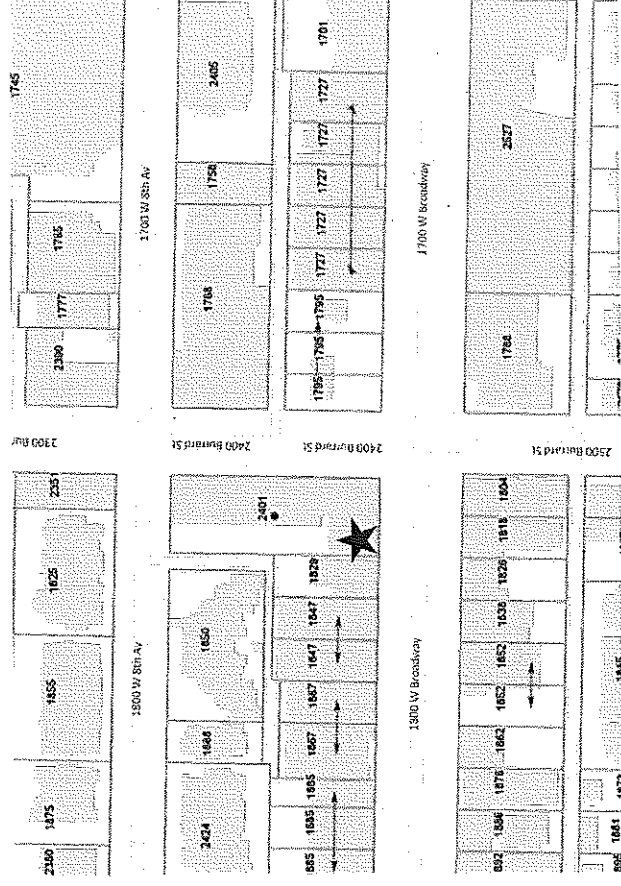
THE LOCATION.

The proposed store is located in the Kitsilano neighbourhood in an existing one-storey building, which faces West Broadway. A lane connection provides parking for the site on the southern portion of the property. Adjacent uses include an insurance agency, the Spy store and a liquor store located on the same lot.



PROPOSED HOURS OF OPERATION:

MONDAY	9 AM – 11 PM
TUESDAY	9 AM – 11 PM
WEDNESDAY	9 AM – 11 PM
THURSDAY	9 AM – 11 PM
FRIDAY	9 AM – 11 PM
SATURDAY	9 AM – 11 PM
SUNDAY	9 AM – 11 PM



SITE SPECIFIC HARDSHIP

1. The Broadway subway project has impacted West Broadway corridor with construction and allows for limited commercial uses at the subject site as it is difficult for new businesses to establish themselves in the current context. A cannabis store is a use that can survive the extensive construction work that has already commenced and is expected to stop in 2025.
2. There is an operational liquor store on the subject site. Given that both uses are licensed by the same body, the LCRB, cannabis distancing should be aligned with distancing requirements for liquor. The liquor store has not posed a nuisance to any of the surrounding uses.
3. The City of Vancouver's distancing requirements are not based on the current legal market. The current distancing requirements follow the distancing requirements found in Seattle and Colorado, where cannabis is not legal on the federal level. Local municipalities that have recently approved cannabis store locational policies allow for distancing as low as 75 m from sensitive uses.
4. The proposed cannabis store is located in a high-density area. In urban environments, in situations where density is higher, it is increasingly difficult to be located 300m from uses. The West Broadway corridor is a major east-west thoroughfare which connects the city, is a hub for office uses and is expected to redevelop to higher density uses in the future. Distancing requirements of the City of Vancouver are determined horizontally, the pattern of development in this area tends to be vertical and will continue towards this trend.

MAJOR
ARTERIALS
WITH A
VARIETY OF
USES
LOCATED
ALONG THE
STREET

APARTMENT USES

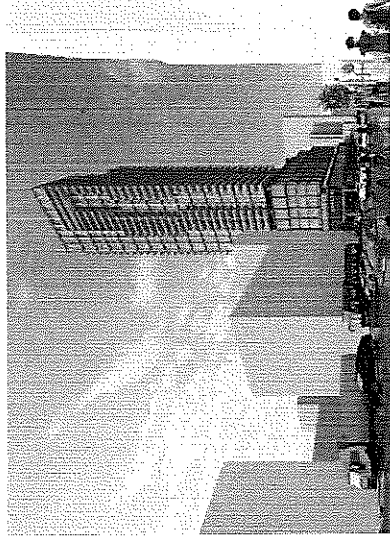
Bus stop for #9 and N19 bus to UBC and Downtown.
#9 operates every 12 minutes, and N19 every 20-30 minutes

APARTMENT USES

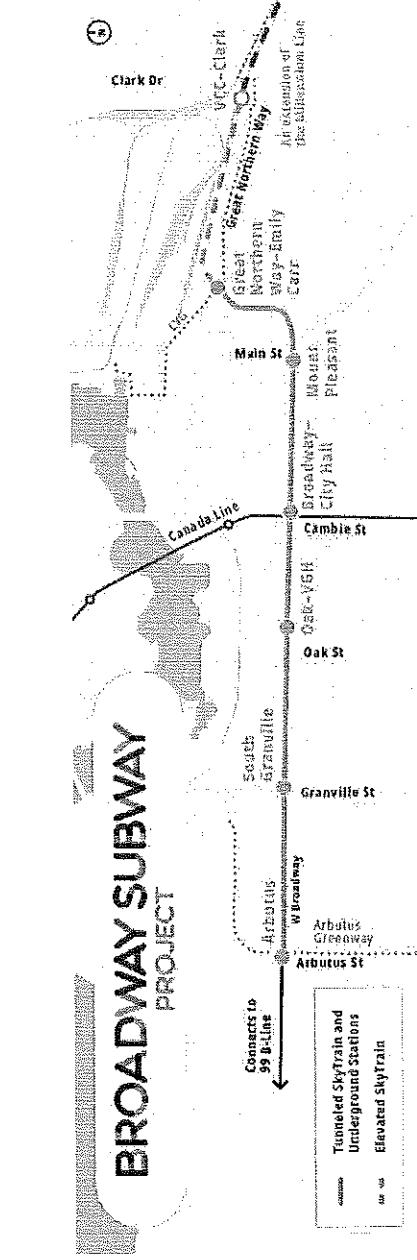
AFFINITY CANNABIS STORE BOV SUBMISSION

BROADWAY SUBWAY PROJECT

- The subject site is located along the Broadway Subway project, which is envisioned as a high-density corridor by the City of Vancouver.
- An additional 40,000 to 50,000 residents in the area are expected by 2050 with building heights expected to range from 6 to 40 storeys.
- Construction of the 5.7 km extension of the Millennium Line is anticipated to take until **2025** and will create a barrier from sensitive uses both **physically** and **visually** and limits the types of uses that can be successful at the site.
- During the Skytrain Canada Line construction, many businesses were adversely affected by the physical and visual barriers of the construction.
- A cannabis store would increase 'eyes on the street' as the site would no longer be vacant. It has been difficult to lease spaces in this area as they will be affected by ongoing construction.
- The COV recognizes the impact construction has on the businesses along this street so much so that they created a campaign to 'show Broadway some love' to support local businesses along this street.



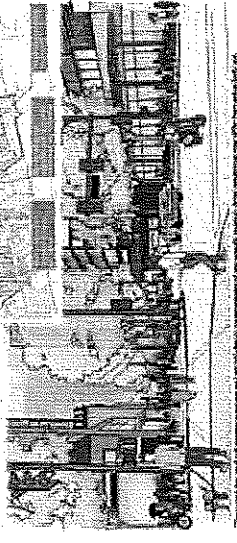
PCI proposal at 1477 W Broadway



Revised December

SA CENTRES - STATION AREAS

The COV proposal focuses on the 12 high-density building footprint of Station 12 and the surrounding area. The proposal includes a mix of uses, including residential, commercial, and public space. The proposal also includes a mix of building heights, from 6 to 40 storeys. The proposal also includes a mix of building types, including residential, commercial, and public space.



DISTANCING & POLICY CONTEXT FOR AN APPROVAL

The City of Vancouver noted that Affinity's proposed site is too close to the following schools:

- **St. John's International School** – the COV VanMap system does not reflect the fact that this school has moved locations and is now located at 369 Boundary Road. Affinity requests the BOV disregard this measurement given the school no longer exists at this location.
- **Century High School** – a private school located within leased space in an existing ten-storey office building located at 1788 W Broadway which provides education for homestay, international students and adult students to prepare them for university/ graduation from high school.
- **Lord Tennyson Elementary School** – a public elementary school with a playground located south of West Broadway.

1. THE PROPOSED LOCATION IS SEPERATED BY NEIGHBOURHOOD AREA AND TWO MAJOR ARTERIAL ROADS FROM SCHOOLS LOCATED SOUTH OF THE SUBJECT SITE.

Affinity's proposed store is in a different neighbourhood (as defined by the City of Vancouver) than the existing independent school (Century High School) located at 1788 West Broadway. The City of Vancouver recognizes the proposed location as in the Kitsilano neighbourhood. The existing independent school is in the Fairview neighbourhood.

Two arterial roads (Burrard and West Broadway), separate the two locations. Both roads consist of 6-lanes, separating the two distinct neighbourhoods. A bus stop that operates every 12 minutes to UBC provides a further visual barrier from sensitive uses.

The BOV has previously supported cannabis stores located adjacent to small private schools, as demonstrated below. Affinity recognizes that the BOV does not make decisions based upon precedent and has only included these examples to demonstrate that a cannabis store does not adversely affect independent school operations as they do not contain traditional school sites with large gathering areas such as fields and playgrounds and can relocate once their lease is complete.

DP ADDRESS	SCHOOL NAME/ ADDRESS	TYPE	DISTANCE
2406 E Hastings	Pals Autism School/ 2409 E Pender	Private	5.8 m
460 Granville	Alexander Academy / 688 W Hastings Street	Private	6.2 m
1078 Mainland Street	Claren Academy/ 1035 Cambie	Private	12.7 m

2. MEASUREMENTS USING *AS THE CROW FLIES* ARE NOT ACCURATE REPRESENTATIONS OF DISTANCE.

COV prefers to use measurements they refer to as 'as the crow flies'. These types of measurements are not accurate representations of how humans travel. The adjacent photo shows a measurement from the subject site as 'as the crow flies'.

LORD TENNYSON

- The proposed store is separated by a major arterial, West Broadway and various apartment uses and is not visible from the school
- We heard no negative feedback from the schools PAC or parents of students in the area
- The distance measured by the city is not reflective of the actual distance as the school is accessed from 11th Avenue not 10th Avenue

The BOV has also varied the following locations which are located within the 300m buffer of schools:

DP ADDRESS 1	SCHOOL NAME/ ADDRESS	DISTANCE (M)
2406 E Hastings	Pals Autism School/ 2409 E Pender	5.84m
460 Granville	Alexander Academy / 688 W Hastings Street	6.2 m
1078 Mainland Street	Claren Academy/ 1035 Cambie	12.7 m
2549 Main Street	St Patrick Regional Secondary /2549 Main Street	68.5m
1710 Robson Street	King George Secondary/ 1755 Barclay Street	70.8m
999 Denman	King George Secondary School/ 1755 Barclay Street	72.5 m
2570 Granville	Vancouver Alternate/1580 W Broadway	94.1 m
2976 W Broadway	General Gordon Elementary / 2896 W 6 th Avenue	159.4 m
725 Nelson	Pattison School/981 Nelson	164.3 m
1766 Davie Street	Lord Roberts Elementary/1100 Bidwell Street	164.8 m
231 Abbott Street	Sino Bright School/ 300 - 328 Water Street	198m
8602 Granville	David Lloyd George Strong Start/ 8370 Cartier Street	219.9m
2580 Kingsway	John Norquay Elementary /4710 Slocan Street	225.7m
651 Robson	Columbia Academy/ 570 Dunsmuir	236.6m
1735 Commercial	Queen Victoria Annex / 1850 W 3 rd Avenue	240.3m
2137 Grandview	Grandview Elementary/ 2055 Woodland Avenue	250.7m
45 W Broadway	St Patrick Regional School/ 115 E 11 th Avenue	277 m
8602 Granville Street	Vancouver Mottessori School/8650 Barnard Street	287.4m

ACTUAL DISTANCE MEASURED TO THE ENTRANCE OF THE SCHOOL:



3. THERE IS POLICY CONTEXT TO CHANGE THE CURRENT DISTANCING RULES, WHICH WERE ESTABLISHED PRE-LEGALIZATION

The City of Vancouver has recently recognized that policy surrounding cannabis retail use is outdated as it was based on pre-legalization. Recently changes to the business license fee structure have been implemented. It is a matter of time before land use regulations are re-evaluated.

Lower mainland municipalities that have recently adopted cannabis retail as a permitted use have established distancing requirements as low as 75m from adjacent sensitive uses such as public schools and community centres, with others adopting bylaws that evaluate on a case-by-case basis.

While the City of Vancouver was ahead of most municipalities by permitting cannabis retail stores following legalization, it is behind in its distancing requirements. Distancing requirements were based on Colorado and Seattle, where cannabis was legalized on a state level first. Since legalization, even these cities have recognized that in an urban context the 300m rule is difficult to abide by and often offer variances to this rule.

Below are examples of local municipalities with distancing requirements below COV in the lower mainland:

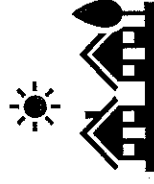
CITY	DISTANCE FROM USES (STORES, SCHOOLS ETC.)
CITY OF PORT MOODY	75M
CITY OF NORTH VANCOUVER	100M
TOWNSHIP OF LANGLEY	100M
DISTRICT OF NORTH VANCOUVER	CASE-BY-CASE
CITY OF COQUITLAM	100M

RETAIL LIQUOR VERSUS RETAIL CANNABIS

	RETAIL CANNABIS	RETAIL LIQUOR
LICENSING AUTHORITY	LCRB	LCRB
SUPPLIER	LCRB	LCRB
DISTANCING REQUIREMENTS	300 M FROM SENSITIVE USES	150 M FROM SENSITIVE USES
ANNUAL LICENSING FEE	\$33,958/ ANNUAL	\$429.00/ ANNUAL
CONSUMPTION IN PUBLIC	NOT PERMITTED	NOT PERMITTED
LAND USE TYPE	COMMERCIAL	COMMERCIAL

Affinity notes given the above noted similarities, cannabis stores should be treated similarly to liquor stores as they are both licensed by the same authority and found in similar land uses. The main difference between the uses at this moment is the licensing fee per year which is anticipated to change.

COMMUNITY FEEDBACK:



- 276 notifications were provided to the community
- 4 in opposition were provided, which is a total of 1.4% of the notification area
- No feedback was received from the schools or parents in the area (Century High School (independent school), or Lord Tennyson.)

ABOUT THE OPERATION/OPERATOR

THE OPERATION

Affinity Cannabis Store Inc. has a good neighbour agreement at its current location to ensure high standards of operation and respect for immediate and surrounding neighbours, and will do the same if approved at this location. Affinity is also already licensed by the Provincial Government, which included extensive background checks to ensure we have no criminal links and are fit and proper to be running the business.

THE SHOP

The proposed site is located in a mixed-use building that was recently constructed. If approved, Affinity is excited to employ other small businesses. Affinity has previously hired local small businesses such as D2 Home Services to help with installation of crown moldings and floor, 24 Print Shop to provide printing services, as well as ordering from the restaurants in our area.

Our vision is to create a space that provided comfort for every type of customer. The interior of the store is a modern feel with a focus on art, music, and overall positive experience for our customers.

WHO ARE OUR CUSTOMERS?

Affinity's clientele is as diverse as our neighbourhood. Our customers seek cannabis products for menopause, relief from Parkinson's disease, anxiety, stress, as well as simply wanting to enjoy some good cannabis. A vast majority of our customers live within walking distance of the store, but we also have customers from neighboring cities with less progressive views of cannabis. Our customers vary from novice cannabis use to experienced and from 19-year-olds to senior citizens.

We hope one day the stigma surrounding cannabis use will disappear as the clientele of a cannabis store is not the stoners depicted so often on TV shows and in the media and their reasons for using cannabis vary.

THE COMMUNITY

Affinity is passionate about involving the local community and has taken time to reach out to our neighbours and neighbourhood groups in the area.

MANAGEMENT TEAM:

Jag Sandher
Director Affinity Cannabis

Jag Sandher is an active business professional with extensive experience in large and small corporations. He has been involved in the Cannabis sector since its legalization in 2018.

Prior to personally running the first Affinity location, through his advertising business, he consulted with Cannabis firms on the marketing side and helped to develop community engagement sessions, educational programs, and compliance documentation for operators.

He is an expert in corporate compliance and has a keen eye for detail. He also spent time consulting at EBay, one of the world's largest websites. Mr. Sandher also launched Vue Media Inc in 2009 and has a large advertising spend under management per year for brands like Mercedes, Toyota, Volkswagen, and Mitsubishi. The firm has clients across North America of all sizes. He is an advocate for strategy and focus. His firms all reflect a dedication to doing things right and with purpose.

Mr. Sandher holds a Bachelor's Degree in Commerce from the University of British Columbia. He also graduated from several training programs by several esteemed performance firms: Franklin Covey, Forum, Holden Impax, Jankek. He has also done training by Tony Robbins, Jay Abraham, the late Chet Holms and many more.

Ruby Sandher MCIP, RPP
Director - Affinity Cannabis

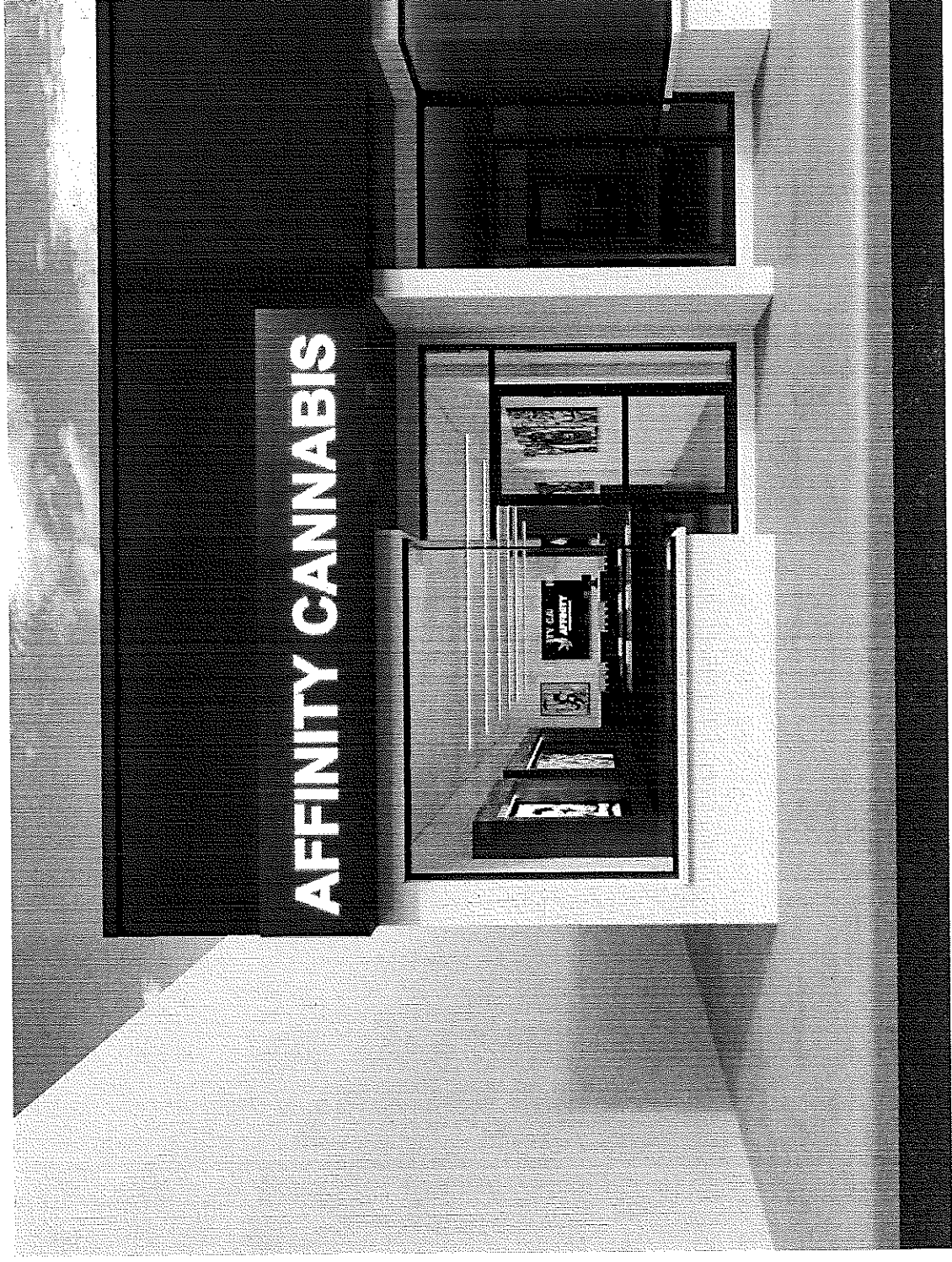
Ruby has over 10 years experience in urban planning experience and brings a diverse background to Affinity Cannabis Store Inc. She is a Registered Professional Planner and currently has been employed at a local municipality working in development planning for over 9 years.

Ruby brings knowledge to Affinity Cannabis that allows the company to bridge the gap between private enterprise and local government. She consistently works with large scale development projects and understands land use, planning issues, bylaws, and steps that must be taken to engage with the community at large.

Experience:

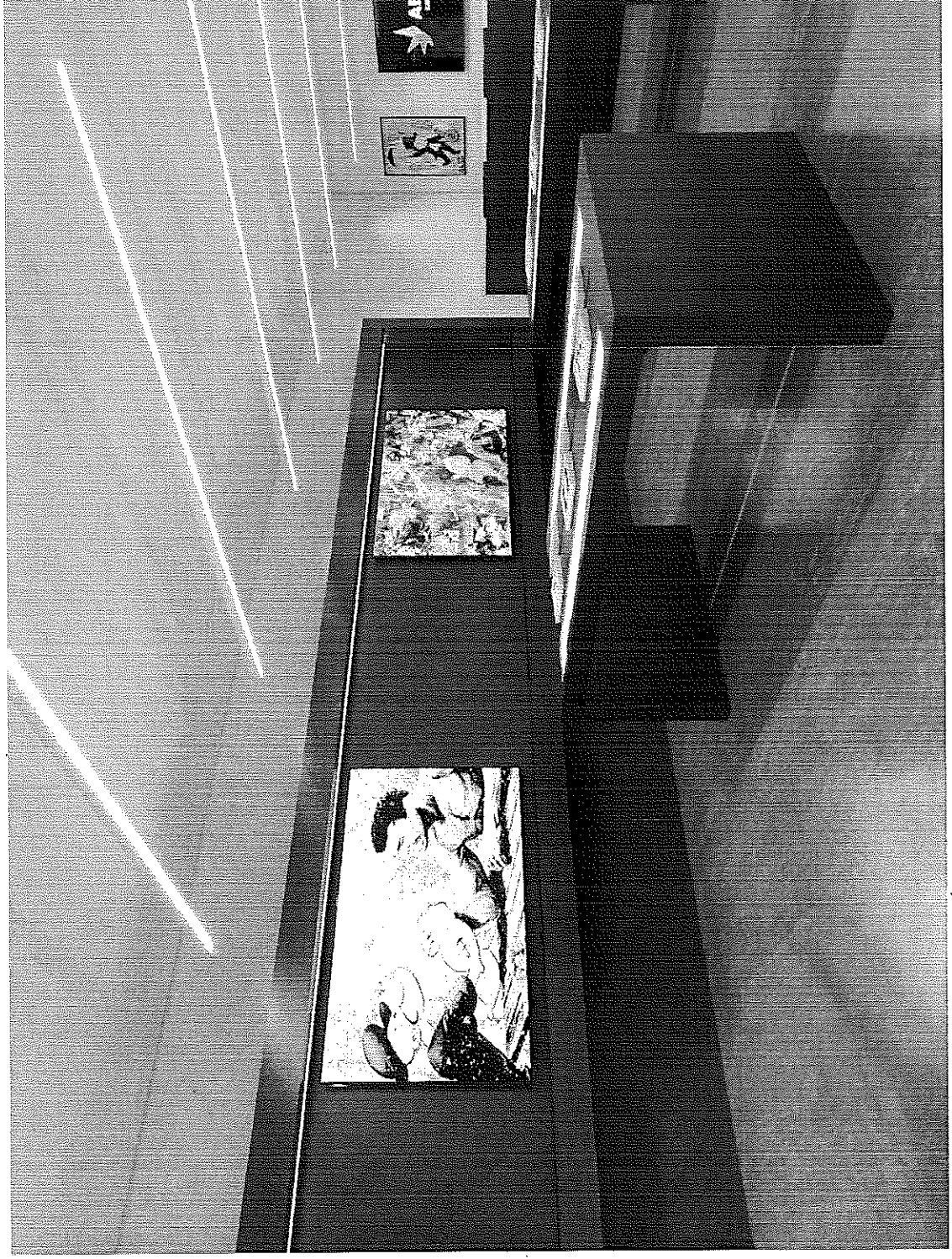
Ruby has a Master of Planning from the University of Southern California with a concentration on Economic Development. She has served as Economic Development Consultant to the Port Liaison in the City of Los Angeles, consulted for the City of Compton Community Redevelopment Agency as well as served a role as Economic Development Program Director.

PROPOSED EXTERIOR



AFFINITY CANNABIS STORE BOV SUBMISSION

PROPOSED INTERIOR



AFFINITY CANNABIS STORE BOV SUBMISSION

PROPOSED INTERIOR



AFFINITY CANNABIS STORE BOV SUBMISSION