



Memorandum

MEMO: July 11, 2019
TO: Zoning Administrator
FROM: John Dacey, AICP, Assistant Planner
RE: **Acupuncture & Herbal Medicine, AP-19-1422 (ZA)**

ORIGINATED BY: Joanne Fanucchi, 53 Alvarado Avenue, Pittsburg, CA 94565.

SUBJECT: This is a public hearing on a request for zoning administrator approval to operate a medical services office (Acupuncture and Herbal Medicine) within a residence located at 53 Alvarado Avenue, in the RS-5 (Residential Single Family, 5,000 Square-Foot Minimum Lot Size) District, Assessor's Parcel No. 087-063-026.

RECOMMENDATION: Staff recommends the Zoning Administrator adopt Resolution No. 339, approving Home Occupation Permit Application No. 19-1422, subject to conditions.

BACKGROUND:

On May 1, 2019, Joanne Fanucchi filed Home Occupation Permit Application No. 19-1422, requesting Zoning Administrator approval to operate a medical services office at 53 Alvarado Avenue. On May 28, 2019, a Notice of Intent to Conduct a Zoning Administrator Public Hearing was provided to the Planning Commission.

PROJECT DESCRIPTION:

Existing Conditions: The subject site is in the Garden Heights Subdivision. It consists of a 5,750-square-foot parcel developed with a 1,050-square-foot single-family dwelling built in 1947. The dwelling originally contained two bedrooms, one full bathroom and a garage, however a variance was approved in 1962 to convert the garage into a family living area, with the condition that there be maintained on the premises a paved, off-street parking space. The former garage space is currently utilized as a third bedroom and laundry room. The site does not currently provide covered parking but has a driveway along the eastern side of the property. The driveway can fit two cars in tandem arrangement.

Proposed Project: Ms. Fanucchi is looking to establish a medical service office as a home occupation at her residence. Her office would provide acupuncture and herbal

medicine services from 10:00 a.m. to 4:00 p.m., Tuesday through Thursday. She would see one patient at a time for one-hour appointments. Ms. Fanucchi has been licensed through the State of California Acupuncture Board since 2003.

The medical service office would occupy a 170-square-foot space in the previously converted garage, which currently functions as a third bedroom and laundry room. A bedroom closet would be converted to a half bathroom for client use. Clients would access the office using a separate door located on the eastern side of the previously converted garage. The existing driveway would be made available for client parking. Since clients would be seen individually, there would be no more than two cars (a client's car and Ms. Fanucchi's personal car) parked on the site at any given point in time.

See Attachment 2 for floor plan.

CODE COMPLIANCE:

Zoning: The property is located in the RS-5 (Residential Single Family, 5,000 Square-Foot Minimum Lot Size) District. Pursuant to PMC section 18.50.400, a home occupation is permitted in an "R" district as an accessory use for a dwelling unit upon the issuance of a home occupation permit.

Pittsburg Municipal Code (PMC) section 18.50.405 contains standards for home occupation permits. Uses that generally comply with the standards set forth in PMC section 18.50.405 may be approved by staff ministerially. However, pursuant to PMC section 18.50.410, if an application for a home occupation permit does not comply with every condition listed in PMC 18.50.405, the application may be refused by staff or the applicant may file an application for Zoning Administrator approval.

The proposed home occupation would not comply with PMC sections 18.50.405(C)(2), (7) and (8). These sections stipulate that: a) no alteration or remodeling of the dwelling is permitted in connection with the home occupation; and b) access to the portion of the dwelling used for the home occupation is limited to the dwelling's main entrance. As mentioned in the project description above, the applicant intends to convert a closet to a bathroom and require her clients to access the medical services office through a separate door located on the side of the previously converted garage.

Parking: Pursuant to PMC section 18.78.040(F), the Zoning Administrator shall determine the parking requirements for home occupation as part of the zoning approval process. Staff has determined that the proposed home occupation most closely resembles that of a medical services office. Per the schedule in PMC section 18.78,040(F), a medical services office has a minimum requirement of one off-street parking space per 250 square feet of gross floor area. The proposed office space would be approximately 170 square feet, thus requiring one off-street parking space.

Also, per Schedule A, single-family residential uses require two off-street parking spaces per unit, including one covered. However, a variance was approved in 1962 to allow the garage be converted to living space with the condition that there be maintained on the premises a paved, off-street parking space.

As the garage has prior been converted to living space and will be utilized as the medical services office, the driveway is available on site providing two uncovered tandem parking spaces. The applicant maintains only one personal vehicle, and is only required one uncovered parking space for the residence, which would leave a second space available for patients accessing the office for appointments. Providing two off-street parking spaces would make the site compliant with PMC section 18.78.040.

Required Findings: Pursuant to PMC section 18.50.410, in order to approve the home occupation permit, the Zoning Administrator must find that:

1. The establishment, maintenance or conduct of the home occupation, or the conditions under which the use will be conducted in this particular case, will not be detrimental to the health, safety, morals, comfort, convenience or welfare of persons residing or working in, or adjacent to, the neighborhood of such use, and will not, in this particular case, be detrimental to the public welfare or injurious to property in such neighborhood;
2. The home occupation, in this case, will not be objectionable or undesirable because of potential noise, increased pedestrian or vehicular traffic, dust, smoke, odors, or any other condition which may interfere with the general welfare of the surrounding residential area; and
3. The establishment, maintenance, and conduct of the use generally complies with the intent of a home occupation as defined in the Zoning Ordinance.

Environmental: This proposed home occupation is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 1, 'Existing Facilities', of the State CEQA Guidelines, section 15301.

Public Noticing: On or prior to July 1, 2019, notice of the July 11, 2019 public hearing was posted at City Hall, at the subject site, and on the "Public Notices" section of the City's website; was delivered to the Pittsburg Library; and mailed via first class or electronic mail to the property owner, the applicant, to all owners of property within 300 feet of the project site, and to all interested parties and individuals and organizations that requested such notice, in accordance with PMC section 18.32.010 and Government Code section 65091.

STAFF ANALYSIS:

The proposed home occupation will not be detrimental to the health, safety, morals, comfort, convenience or welfare of persons residing or working in, or adjacent to, the neighborhood where the use would take place, and would not be detrimental to the public welfare or injurious to property in such neighborhood. Rather, the proposed acupuncture and herbal medicine use would be beneficial to the health of persons in the neighborhood and the City in general, in that it would expand community access to a licensed acupuncturist providing medical services.

The home occupation would not be objectionable or undesirable because of potential noise, increased pedestrian or vehicular traffic, dust, smoke, odors, or any other condition which may interfere with the general welfare of the surrounding residential area, if the project is conditioned to: 1) allow only one client at a time, with 15-minute intervals between appointment times to allow for clients to leave prior to the next client arriving; 2) require that one parking space within the driveway be designated for clients; and 3) require that clients arriving early be prohibited from waiting outside of the home.

Staff believes that the proposed home occupation generally complies with the intent of a home occupation as defined in the Zoning Ordinance, in that there would be no external evidence of its operation and it would conform to a majority of the standards for home occupations, as set forth by PMC section 18.50.405.

REQUIRED ACTION:

Move to adopt Resolution No. 339, approving Home Occupation Permit Application No. 19-1422, subject to conditions.

ATTACHMENTS:

1. Proposed Resolution No. 339
2. Project Plans, dated May 1, 2019
3. Public Hearing Notice/Vicinity Map

PROPOSED
BEFORE THE ZONING ADMINISTRATOR OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Granting Zoning Administrator)	
Approval to Operate a Medical Services)	
Office as a Home Occupation at 53)	Resolution No. 339
Alvarado Avenue for "Acupuncture &)	
Herbal Medicine, AP-19-1422 (ZA)."))	

The Zoning Administrator DOES RESOLVE as follows:

Section 1. Background

- A. On May 1, 2019, Joanne Fanucchi filed Home Occupation Permit Application No. 19-1422, requesting approval to establish a medical services office (acupuncture and herbal medicine) within an existing single-family residence located at 53 Alvarado Avenue, in the RS-5 (Residential Single Family, 5,000 Square-Foot Minimum Lot Size) District. Assessor's Parcel No. 087-063-026.
- B. On May 28, 2019, a Notice of Intent to exercise staff delegated authority for this project was included on the Planning Commission agenda.
- C. The proposed home occupation is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 1, "Existing Facilities" of the State CEQA Guidelines, section 15301.
- D. On or prior to July 1, 2019, notice of the July 11, 2019 public hearing was posted at City Hall, at the proposed project site, and on the "Public Notices" section of the City's website; was delivered to the Pittsburg Library; and mailed via first class or electronic mail to the property owner, the applicant, to all owners of property within 300 feet of the project site, and to all interested parties and individuals and organizations that requested such notice, in accordance with PMC section 18.32.010 and Government Code section 65091.
- E. Pittsburg Municipal Code (PMC) section 18.32.010, states that Zoning Administrator approval is required before the issuance of a Home Occupation Permit, to ensure that each new or expanded use complies with PMC Title 18.
- F. PMC section 18.50.410, specifies required findings for Zoning Administrator approval of a home occupation that does not comply with every condition listed in PMC section 18.50.405. In accordance with PMC section 18.50.410(A), the Zoning Administrator must find that:

1. The establishment, maintenance or conduct of the home occupation, or the conditions under which the use will be conducted in this particular case, will not be detrimental to the health, safety, morals, comfort, convenience or welfare of persons residing or working in, or adjacent to, the neighborhood of such use, and will not, in this particular case, be detrimental to the public welfare or injurious to property in such neighborhood;
 2. The home occupation, in this case, will not be objectionable or undesirable because of potential noise, increased pedestrian or vehicular traffic, dust, smoke, odors, or any other condition which may interfere with the general welfare of the surrounding residential area; and
 3. The establishment, maintenance, and conduct of the use generally complies with the intent of a home occupation as defined in this title.
- G. On July 11, 2019, the Zoning Administrator held a public hearing on Planning Application No. 19-1422, at which time oral and/or written testimony was considered.

Section 2. Findings

- A. Based on the Zoning Administrator Staff Report entitled, "Acupuncture & Herbal Medicine, AP-19-1422 (ZA)," dated July 11, 2019, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the Zoning Administrator finds that:
1. All recitals above are true and correct and are incorporated herein by reference.
 2. The proposed project will not be detrimental to the health, safety, morals, comfort, convenience or welfare of persons residing or working in, or adjacent to, the neighborhood of such use, and will not, in this particular case, be detrimental to the public welfare or injurious to property in such neighborhood, in that the proposed acupuncture and herbal medicine use will expand community access to a licensed acupuncturist providing medical services, and would not cause excessive pedestrian or vehicular traffic in the area.
 3. The home occupation will not be objectionable or undesirable because of potential noise, increased pedestrian or vehicular traffic, dust, smoke, odors, or any other condition which may interfere with the general welfare of the surrounding residential area, if conditions are added that: 1) allow only one client on site at a time; 2) require a 15-minute interval between appointment

- times to allow for clients to leave prior to the next client arriving; 3) require that one parking space within the driveway be designated for clients; and 4) that clients arriving early be prohibited from waiting outside of the home.
4. The establishment, maintenance, and conduct of the use will generally comply with the intent of a home occupation as defined within PMC Title 18, in that there would be no external evidence of its operation and it would conform to a majority of the standards for home occupations, as set forth by PMC section 18.50.405.
- B. The staff report entitled, "Acupuncture & Herbal Medicine, AP-19-1422 (ZA)," dated July 11, 2019, is referenced hereto as additional support for findings.

Section 3. Decision

Based on the findings set forth above, the Zoning Administrator hereby approves Planning Application No. 19-1422, subject to the following conditions:

1. The home occupation shall be operated substantially as presented to the Zoning Administrator in the staff report identified in Section 2 above, except as modified by the conditions below. Operation of the approved business in a manner inconsistent with this description and this zoning administrator approval shall be grounds for revocation of the zoning administrator approval.
2. Hours of operation shall be limited to 10:00 a.m. to 4:00 p.m., Monday through Friday.
3. No structure, addition, alteration or remodeling of the dwelling is permitted in connection with the home occupation, aside from alterations related to the conversion of the third bedroom into a medical office with a half bathroom. The applicant shall obtain building permits from the City of Pittsburgh prior to construction of the proposed alterations.
4. No sign, nameplate, or any other form of advertising used in connection with the home occupation may be displayed on the site.
5. Only one client in connection with the home-based business shall be permitted on site at any given time.
6. The applicant shall designate an off-street parking space within the existing driveway for client parking. The applicant shall prepare a parking information handout for clients identifying this space.

7. The applicant shall schedule a minimum interval of 15-minutes between client appointments to allow for one client to leave the site prior to another client's arrival.
8. The operator of the home occupation shall maintain an active license through the State of California Acupuncture Board.
9. If any changes in the medical services office (acupuncture and herbal medicine) use, or additional activities beyond that proposed are desired, prior City review and approval as required under PMC Title 18 shall be required. Requests for modification of the home occupation permit shall be submitted to the Zoning Administrator. Requested changes may require a modification of the home occupation permit or, upon determination of the Zoning Administrator, a new home occupation permit may be required. Minor changes may be approved by the Zoning Administrator, provided that the Zoning Administrator determines the changes to be in substantial conformance with this home occupation permit or a subsequent home occupation permit, as applicable.
10. The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as conditions of approval for this project as applicable. Where there is a conflict between the Conditions in Resolution No. 8931 and the conditions stated herein, the conditions in this Resolution No. 339 shall apply.
11. It shall be the responsibility of the applicant to maintain an updated business license containing an accurate description of the use at the site.
12. Applicant agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of the project approval, subsequent project approval, or other action arising out of, or in connection with, or the project approvals. The parties shall cooperate in defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at applicant's sole cost and expense. Applicant may select its own legal counsel to represent applicant's interests at applicant's sole cost and expense. Applicant shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.

13. This approval shall expire on July 11, 2020, unless the use has been legally established, and all applicable conditions of approval complied with prior to the expiration date, or a written request for an extension is filed with the Planning Department prior to the expiration date and is subsequently approved by the Zoning Administrator.

Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

The foregoing resolution was passed and adopted the 11th day of July, 2019, by the Zoning Administrator of the City of Pittsburg, California.

KRISTIN POLLOT, AICP
ZONING ADMINISTRATOR

FANUCCHI
53 ALVARADO AVE
Pittsburg ~~CA~~

4.5' S

1/2 bath

7'



Door

W

17'

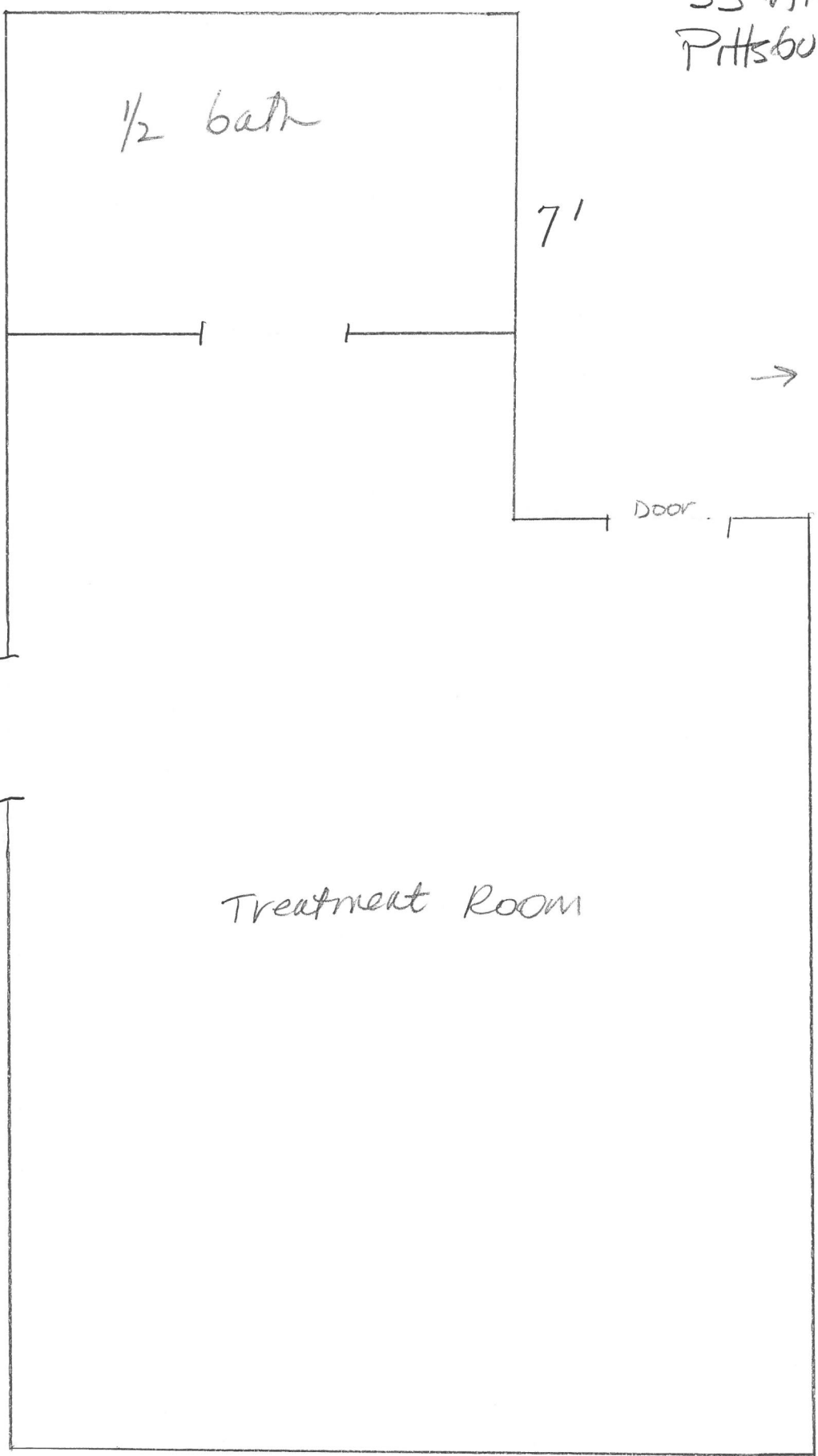
outside Door

Treatment Room

10'

10'

N ← ALVARADO →





City of Pittsburg

Community Development Department – Planning Division

65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the ZONING ADMINISTRATOR of the City of Pittsburg will conduct a public hearing on:

DATE: July 11, 2019
TIME: 2:00 p.m.
PLACE: First Floor, Conference Room 4B
65 Civic Avenue, Pittsburg, California

Concerning the following matter:

Acupuncture and Herbal Medicine, AP-19-1422 (ZA).

This is an application filed by Joanne Fanucchi requesting Zoning Administrator approval to operate a medical services office (limited to acupuncture and herbal medicine) from her single-family residence located at 53 Alvarado Avenue, in the RS-5 (Single-Family Residential, 5,000 sf min. lot size) District. Assessor's Parcel Number 087-063-026.

PROJECT PLANNER: John Dacey, (925) 252-4824 or jdacey@ci.pittsburg.ca.us

Why am I receiving this notice? You are receiving this notice because you have either previously requested notifications from the Planning Division, or a project has been proposed in your neighborhood and all property owners within a minimum 300-foot radius of the project site are required to be notified under the Pittsburg Municipal Code.

Where can I get more information about this project?

The complete file for this project is available for public inspection at the Planning Division, weekdays during the hours of 8:00 AM to 12:00 PM and 1:00 PM to 5:00 PM. You can also find out more about the project by contacting the project planner listed above.

What can I do if I have comments on the project?

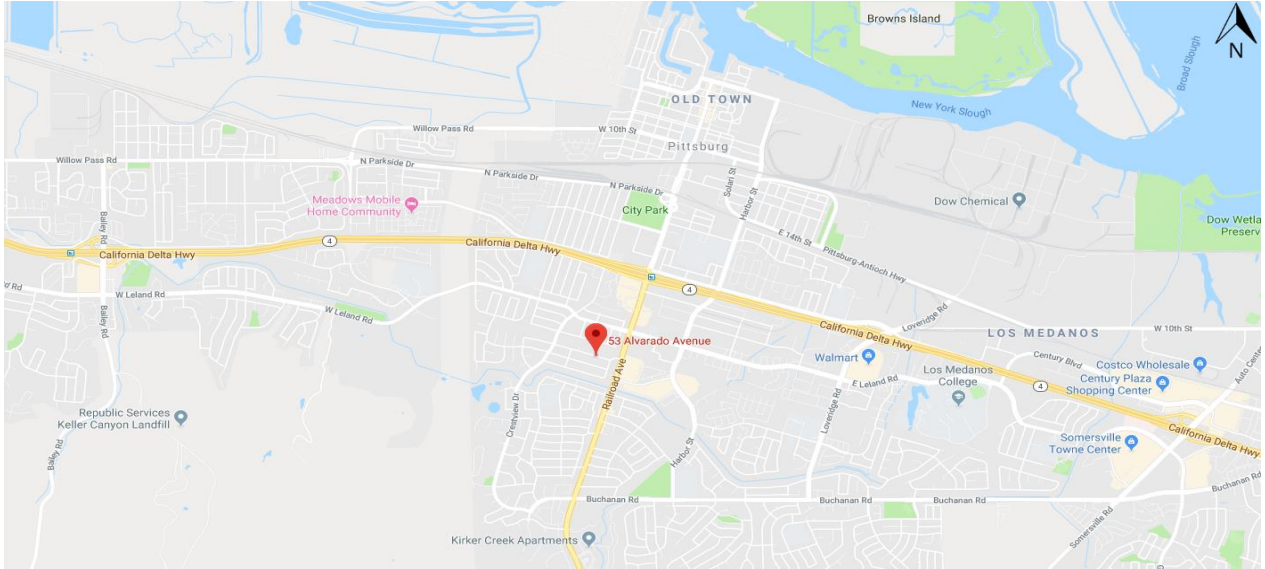
Comments or objections to the project can be made by writing or through oral testimony during the public hearing. Written comments citing the project name may be emailed to the project planner listed above, or may be mailed or delivered to: Pittsburg Planning Division, 65 Civic Avenue, Pittsburg, CA 94565. You may also register your comments or objections by attending the public hearing on the date and time listed above.

Pursuant to Section 65009 of the California Government Code, if you challenge this matter in court, you may be limited to those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on the matter delivered to this agency at, or prior to the public hearing. Any written correspondence delivered to the Planning Division before the hearing body's action on the matter will become a part of the administrative record.



KRISTIN POLLOT, ZONING ADMINISTRATOR
CITY OF PITTSBURG

Project Title: Acupuncture and Herbal Medicine AP-19-1422 (ZA).
Location: 53 Alvarado Avenue, APN: 087-063-026



City of Pittsburg

Community Development Department - Planning Division
65 Civic Avenue
Pittsburg, CA 94565

KARAGLANIS KRIS TRE
37 MIRAMONTE RD
WALNUT CREEK CA 94597 3413

NOTICE OF PUBLIC HEARING