Legislation Details (With Text)

File #:	26-708		
Type:	Public Hearing	**Status:**	Agenda Ready
File created:	8/11/2026	**In control:**	Planning Commission
On agenda:	9/8/2026	**Final action:**	
Title:	APPEAL OF THE ZONING ADMINISTRATOR'S APPROVAL OF COASTAL DEVELOPMENT PERMIT NO. 26-006 (205 PECAN ADUS) REQUEST: To permit two, approximately 420 sq. ft. and 480 sq. ft. detached accessory dwelling units (ADUs) on an existing multi-family property at an overall height of two stories and 18 ft. LOCATION: 205 Pecan Avenue, 92648 (northwest corner of Lake Street and Pecan Avenue)		
Attachments:	1. Att #1 - Suggested Findings and Conditions of Approval, 2. Att #2 - Site Plan received and dated August 6, 2026, Floor Plans and Elevations received and dated May 28, 2026, 3. Att #3 - Appeal Letter received and dated July 22, 2026, 4. Att #4 - Photos, 5. Att #5 - Vicinity Map, 6. Att #6 - ZA Notice of Action, 7. Att #8 - Powerpoint Presentation, 8. Att #7 - ZA Minutes, 9. Att #8 Code Requirements		

Date	Ver.	Action By	Action	Result
9/8/2026	1	Planning Commission		
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PLANNING COMMISSION STAFF REPORT

SUBMITTED TO: **Planning Commission**
SUBMITTED BY: **Jennifer Villasenor, Director of Community Development**
PREPARED BY: **Madalyn Welch, Senior Planner**

SUBJECT:
APPEAL OF THE ZONING ADMINISTRATOR'S APPROVAL OF COASTAL DEVELOPMENT PERMIT NO. 26-006 (205 PECAN ADUS)

REQUEST:

To permit two, approximately 420 sq. ft. and 480 sq. ft. detached accessory dwelling units (ADUs) on an existing multi-family property at an overall height of two stories and 18 ft.

LOCATION:

205 Pecan Avenue, 92648 (northwest corner of Lake Street and Pecan Avenue)

APPELLANT: Council Member Pat Burns

APPLICANT:

Marcus Kemmerer, 228 Crest Avenue, Huntington Beach, CA 92648

PROPERTY OWNER:

UPOP, LLC, 6602 Cedarwood Drive, Huntington Beach, CA 92648

In considering this request, the Planning Commission may either uphold the Zoning Administrator's decision (with or without modifications) or take an alternative action:

ZONING ADMINISTRATOR ACTION:

A) Find the project categorically exempt from CEQA pursuant to Section 15303, Class 3 New Construction or Conversion of Small Structures.
B) Approve Coastal Development Permit No. 26-006 with suggested findings and conditions of approval (Attachment No. 1)

ALTERNATIVE ACTION(S):

A) Do not make the suggested findings, which will result in a mandatory denial per Section 245.30 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO); or
B) Continue Coastal Development Permit No. 26-006 and direct staff accordingly.

PROJECT PROPOSAL:

Coastal Development Permit (CDP) No. 26-006 represents a request to permit two, approximately 420 sq. ft. and 480 sq. ft. detached accessory dwelling units (ADUs) on an existing multi-family property at an overall height of two stories and 18 ft.

Background:

The subject site is currently developed with a triplex. Aerial imagery indicates the triplex structure has existed on the site since at least 1932 and parking stalls were added to the site in the early 2000s. Entitlements do not exist for the site as it was built prior to the adoption of the zoning ordinance. Pursuant to Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Section 231.02(B), no existing use of land shall be deemed to be nonconforming solely because of the lack of off-street parking. Furthermore, the City cannot impose development standards on ADUs that would preclude construction of ADUs or that conflict with Government Code Sections 66310 through 66342.

Zoning Administrator Action:

A public hearing before the Zoning Administrator (ZA) was held on July 15, 2026. Prior to the hearing, staff received one phone call from a neighbor in opposition of ADUs and concerns with parking. During the hearing, there were no public speakers. The ZA approved the project with the suggested findings for the CDP and conditions of approval.

Appeal:

On July 22, 2026, Councilmember Burns appealed the project citing existing parking deficiencies, inadequate backup distance, insufficient parking for the proposed development, and future condominium conversion and setback compliance (Attachment No. 3). The following discussion outlines ADU State Law and the appeal concerns.

ADU State Law
ADUs are attached or detached residential dwelling units that provide complete, independent living facilities, and are located on a lot with a proposed or existing primary residence. State Law (Government Code Section 66323) identifies types of “state exempt” ADUs that a local agency must permit, which are commonly called “66323 Units”. On multifamily properties, local agencies must permit at least one ADU that is converted from existing non-habitable space (up to 25% of the existing multifamily dwelling units). Local agencies also must permit up to two detached ADUs or up to eight (8) detached ADUs, not to exceed the number of existing units on the lot. Such “exempt” ADUs do not have to comply with lot coverage, parking, setbacks, and design standards. However, they must comply with 4-foot rear and side yard setbacks, as well as building code and health and safety requirements. The proposed project complies with and consists of 66323 units.

Existing parking deficiencies
The site has three existing parking spaces for the triplex, which do not comply with the current HBZSO requirement of seven (7) spaces. Per ADU State Law (Government Code Section 66322), a local agency cannot deny an ADU permit due to “nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.” Therefore, the City may not require additional compliant parking for the main building due to the proposed ADUs. To require zoning corrections on the site would be in violation of ADU State Law. Conversely, the applicant proposes to maintain the existing parking onsite and not reduce the current quantity by locating the ADUs within the rear yard between the existing building and parking area. Modifications to the parking spaces are not included in the project scope. Furthermore, neither SB 35 nor AB 2097 apply to this project. SB 35 is a ministerial streamline process for multifamily or mixed-use projects, which is a separate project type from ADUs and is not applicable. AB 2097 is related to parking prohibitions on housing projects within 0.5 mile to a major transit stop and is not applicable. The ADUs as proposed, comply with State Law.

Inadequate backup distance
As mentioned, the proposed ADUs comply with the requirements of Government Code Section 66323. The 25-foot back up space requirement for existing parking spaces cannot be imposed on this project because they are not proposing any changes to the parking area within the scope of the request and State Law prevents local authority from requiring corrections to nonconforming sites proposing compliant ADUs. ADUs that comply with Government Code Section 66323 are only subject to standards set forth in that section. The ADUs as proposed, comply with State Law.

Insufficient parking for the proposed development
Two detached ADUs follow the requirements of Government Code Section 66323. As previously discussed, no additional parking is required for a 66323 unit in conjunction with its location within one -half mile walking distance of public transit.

Future condominium conversion (AB 1033) and setback compliance
Assembly Bill 1033 does not automatically apply statewide. A local city council or county board of supervisors must pass a local ordinance allowing it. The City of Huntington Beach does not have an ordinance allowing an ADU to be sold as a condominium.

There is not a specific building separation requirement for ADUs. Instead, state law indicates that a minimum distance may not be applied if they would unreasonably restrict the creation of an ADU unless they are a requirement of a Building or Fire Code (Government Code Section 66314).

Furthermore, the Building Division reviewed the proposed separation for the project and indicated review for compliance will be conducted during building plan check. A 10-foot building separation is a development standard that cannot be imposed on the proposed 66323 ADUs as the City does not have a separate ADU ordinance approved by the California Department of Housing and Community Development (HCD). Additionally, requiring a 10-foot building separation would push the ADUs into the existing parking area on site, which would then impact the existing parking spaces on site. The parking area is not being modified as part of this request. The loss of parking is not supported.

ISSUES AND ANALYSIS:

Subject Property And Surrounding General Plan Designations, Zoning And Land Uses:

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property:	M-sp (30-50 du/ac) (Mixed Use - Specific Plan Overlay)	SP 5-CZ (Downtown Specific Plan - Coastal Zone Overlay)	Multi-family residential
North and South (across Pecan Ave.) of Subject Property:	M-sp	SP 5-CZ	Single-family residential
East of Subject Property (across Lake St.):	RMH (Residential Medium High Density)	RMH-A-CZ (Residential Medium High Density - Coastal Zone Overlay)	Single-family residential/Multi-family residential
West of Subject Property:	M-sp	SP 5-CZ	Commercial shopping center

General Plan Conformance:
The proposed development is consistent with the Land Use Element designation of M-sp (30-50 du/ac) (Mixed Use) on the subject property and the following General Plan and Coastal Element goals and policies:

A. Land Use Element

Goal LU-1: New commercial, industrial, and residential development is coordinated to ensure that the land use pattern is consistent with the overall goals and needs of the community.

Policy LU-1D: Ensure that new development projects are of compatible proportion, scale, and character to complement adjoining uses.

Goal LU-4: A range of housing types is available to meet the diverse economic, physical, and social needs of future and existing residents, while neighborhood character and residences are well maintained and protected.

Policy LU-4B: Improve options for people to live near work and public transit.

Policy LU-4E: Encourage housing options located in proximity to employment to reduce vehicle miles traveled.

The proposed development is consistent with the mixed-use land use designation and will continue the land use pattern. The project site is developed as a triplex and the proposed ADUs are compatible in proportion, scale, and character of the adjoining uses. The subject site is surrounded by multi-story structures and is located within a mixed-use walkable neighborhood, within 0.1 mile (approximately 3-minute walk) of a transit stop, that allows for a density of 30-50 dwelling units per acre. Pursuant to California Government Code Section 66323, the proposed two detached ADUs are allowed on a lot that has an existing multi-family dwelling and they comply with applicable standards. Such units are subject to 4-foot setbacks on rear and side yards per state law, and the project proposes an interior setback of five (5) feet and street side setback of 10 feet, which is consistent with the Downtown Specific Plan. The project would provide a housing option within walking distance to job opportunities, public transit, and Main Street, which offers a variety of goods and services to residents and visitors. Additionally, the two ADUs are minimal in size, maintaining similar setbacks to the existing triplex structure, and will not impact the existing parking area on site. As such, the ADUs complement and support the existing character of the site.

B. Coastal Element

Goal C-1: Develop a land use plan for the Coastal Zone that protects and enhances coastal resources, promotes public access and balances development with facility needs.

Policy C 1.1.1: With the exception of hazardous industrial development, new development shall be encouraged to be located within, contiguous or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services, and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Policy C 1.2.2: Require that development be designed to account for the unique characteristics of project sites and objectives for Coastal Zone character in accordance with the Development "Overlay" schedule listed in Table C-1, as appropriate.

Goal C-2: Provide coastal resource access opportunities for the public where feasible and in accordance with the California Coastal Act requirements.

Policy C 2.4.2: Ensure that adequate parking is maintained and provided in all new development in the Coastal Zone.

The development is located on a site that is already developed with adequate public services and infrastructure. The site has three existing parking spaces and the proposed location of the ADUs will not encroach into the parking area. They will remain and continue to supply parking for the subject property. Per ADU state law, parking cannot be imposed on the proposed ADUs since they are within one-half mile walking distance of public transit, specifically 0.1 mile of a bus stop. The project is consistent with the Coastal Element in that it provides additional housing within the coastal zone, encourages public transit use while maintaining the present level of parking on site, and does not inhibit access to coastal resources or public views.

C. Housing Element

Policy 2.7: Support the provision of accessory dwelling units consistent with State law to provide affordable housing units throughout the community.

The proposed project would provide for two accessory dwelling units in the coastal zone and would contribute housing units to meet the City's RHNA targets for the planning period.

Zoning Compliance:
The project is subject to a coastal development permit because of its location within the coastal zone. It is subject to Government Code 66323 and applicable requirements of ADU State Law, with which it complies.

Urban Design Guidelines Conformance:
Not applicable.

Environmental Status:
The project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Chapter 3, Section 15303 for new construction or conversion or small structures because the project consists of the construction of two accessory dwelling units on a site with an existing triplex located in an urbanized, previously developed area.

Coastal Status:
The project is in the non-appealable area of the coastal zone and is subject to a coastal development permit.

The California Coastal Commission (CCC) recently provided guidance on processing Local Coastal Program Amendments for ADUs in the Coastal Zone. The CCC noted "the Coastal Act does not exempt local governments from meeting the requirements of state and federal law with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any law hereafter enacted." The proposed ADUs meet the standards of State Law and comply with the Local Coastal Program and Coastal Act by providing housing units within the coastal zone without affecting coastal access or resources. The project will provide two housing units within the coastal zone without removing existing parking on site. The project will not impede public access or public views of the coast as it is located on a developed, privately owned property at an overall height of two stories, consistent with properties within the vicinity.

The CCC has also indicated "Through its existing authority, the Commission has continued to preserve existing density and affordable housing, including by supporting and encouraging the creation of ADUs and JADUs. The creation of new ADUs and JADUs in existing residential areas is one of many strategies that aims to increase housing stock by creating additional housing units of a type and size that can be more affordable than other forms of housing in the coastal zone. Coastal Act and LCP policies can also ensure that new ADUs and JADUs are developed in areas where they will be safe from hazards and will avoid significant adverse impacts on coastal resources.

***Design Review Board*:**
Not applicable. Only objective standards identified in state law can be imposed on ADUs.

Other Departments Concerns and Requirements:
The Building Division and Public Works Departments have provided code requirements with which the project must comply. The Fire Department does not have any comments on the project.

Public Notification:
Legal notice was published in the Huntington Beach Wave on Thursday, August 27, 2026, and notices were sent to property owners of record within a 500 ft. radius of the subject property, individuals/organizations requesting notification (Community Development Department's Notification Matrix), and applicant.

Application Processing Dates:

DATE OF COMPLETE APPLICATION:	MANDATORY PROCESSING DATE(S):
June 18, 2026	Not applicable to appeals

This item was presented to the Zoning Administrator on July 15, 2026 which complies with the State of California Planning, Zoning, and Development Laws relative to mandatory processing times.

SUMMARY:
The Planning Commission may approve the proposed project based upon the following:

- Consistent with ADU State Law;
- Consistent with the site's General Plan land use and zoning designations and Local Coastal Program;
- The project will not generate significant environmental impacts in accordance with CEQA;
- The project, as proposed, will not adversely affect public access to coastal resources.

ATTACHMENTS:
1. Suggested findings and conditions of approval
2. Site Plan received and dated August 6, 2026, Floor Plans and Elevations received and dated May 28, 2026
3. Appeal Letter received and dated July 22, 2026
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