

ATTACHMENT NO. 1
FINDINGS AND CONDITIONS OF APPROVAL
TENTATIVE TRACT MAP NO. 18157
CONDITIONAL USE PERMIT NO. 17-042

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15182 of the CEQA Guidelines and Government Code 65457, because the project is a mixed-use development that conforms with the Beach and Edinger Corridors Specific Plan for which Program EIR No. 08-008 was adopted and implementation of the project would not result in any new or more severe potentially adverse environmental impacts that were not considered in the Final EIR for the BECSP. Compliance with all applicable mitigation measures adopted for the Specific Plan will be required of the project. In light of the whole record, none of the circumstances described under Section 15162 of the CEQA Guidelines are present and, therefore, no EIR or MND is required.

The Project, located on the north side of Ellis Avenue between Beach Boulevard and Patterson Lane, consists of a four-story mixed-use building including 48 condominium residences with on-site public and private open space, a three level subterranean parking structure and 891 square feet of commercial space. The development site is located within the Town Center Neighborhood Segment of the Beach and Edinger Corridors Specific Plan (BECSP) area. The City certified Program EIR No. 08-008 on December 8, 2009 and adopted the BECSP on March 1, 2010. In 2015, the City Council amended the BECSP to reduce the Maximum Amount of New Development to 2,100 total new dwelling units including 725 units on Beach Boulevard. There are 200 undeveloped units remaining within the MAND on Beach Boulevard. The 48 units contemplated by the project is within the total new dwelling units permitted on Beach Boulevard under the approved BECSP. The project conforms to all standards and regulations of the BECSP development code. Accordingly, no changes requiring revision of the previously certified Program EIR are proposed as part of the project, nor have any circumstances changed requiring revision of the previously certified Program EIR. In addition, no new information identifies that implementation of the BECSP, including the project, will have significant effects that were not discussed in the previously certified Program EIR or that the significant effects identified in the certified Program EIR will be substantially more severe than determined in the Program EIR. Nor is there new information showing that mitigation measures or alternatives not previously adopted would substantially reduce one or more significant effects of the Project.

FINDINGS FOR APPROVAL - TENTATIVE TRACT MAP NO. 18157:

1. Tentative Tract Map No. 18157 for the consolidation of three parcels into one 0.95 acre parcel is consistent with the General Plan Land Use Element designation of Mixed Use on the subject property. The project complies with all applicable code provisions of the Subdivision Map Act, Huntington Beach Zoning and Subdivision Ordinance, and Beach and Edinger Corridors Specific Plan. The project will result in the demolition of an existing commercial building, one

dwelling unit, and a portion of a former car wash and facilitate the development of a mixed-use building permitted by code. The proposed subdivision is consistent with goals, policies, and objectives of the General Plan Land Use Element that govern new subdivisions and residential development.

2. The site is physically suitable for the type and density of development in that the project site is able to accommodate the type of development proposed from a public service, circulation, and drainage perspective. The site is located within the Beach and Edinger Corridors Specific Plan, which permits mixed-use buildings and residential uses within close proximity of commercial uses. The specific plan is a form-based code that does not rely on density to limit development, but rather the building form to create an attractive public experience appealing to pedestrians. By merging the three existing lots into one, the site will function as an integrated development compatible with the vision of the growing urban Beach Boulevard corridor.
3. The design of the subdivision or the proposed improvements will not cause serious health problems or substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because the site has been previously used as a car wash, one dwelling unit, and a convenience store. The site does not contain any significant habitat for wildlife or fish. Design features of the project as well as compliance with the provisions of the Beach and Edinger Corridors Specific Plan will ensure that the subdivision will not significantly impact the function and value of any resources adjacent to the project site. The project will comply with applicable mitigation measures pursuant to Program EIR No. 08-008.
4. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision unless alternative easements, for access or for use, will be provided. Vehicular access is provided via a driveway along Ellis Avenue. The subdivision will provide all necessary street, sidewalk, and utility easements to serve the new subdivision. The project will dedicate four feet of land to widen the existing sidewalk (public right-of-way) along Ellis Avenue. The project will provide all necessary easements and will not affect any existing easements.

FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 17-042:

1. Conditional Use Permit No. 17-042 for the development of a mixed-use building consisting of 48 condominium residences, 891 sf. of retail space and associated infrastructure and site improvements will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood because as conditioned, the project will result in less than significant impacts related to traffic, noise, lighting, aesthetics, and privacy of adjacent residences. Existing multi-family residences adjacent to the east will be buffered from the project by an approximately 33 ft. 7 in. setback on the east side of the project site consisting of landscaping and a driveway. Residents of the project and the general public, including nearby residents, will benefit from the new commercial portion of the building and the public plaza. Based upon the conditions of approval and BECSP mitigation measures, the proposed project will not result in significant impacts onto adjacent properties in that the project complies with setbacks, onsite parking requirements, and allowable building height. The project is a four-story building that is compatible with surrounding developments in terms of architectural design and scale pursuant to the massing and scale requirements of the BECSP. The proposed mixed-use development

will be compatible with the surrounding multi-family residential uses and commercial uses in terms of density, layout and overall design. With the conditions of approval imposed, the project's grading and drainage pattern will result in compatible finished grades between adjacent properties.

2. The proposed project will comply with the Town Center Neighborhood Segment of the Beach and Edinger Corridors Specific Plan, and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) because the project complies with all other setback standards, building height, top and base architectural element requirements, and parking.
3. The General Plan Land Use Map designation on the subject property is currently M-sp (Mixed Use – Specific Plan Overlay). Conditional Use Permit No. 17-042 for the development of a mixed-use building consisting of 48 condominium residences, 891 sf. of retail space and associated infrastructure and site improvements is consistent with this designation and the goals and policies of the City's General Plan as follows:

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-1A: Ensure that development is consistent with the land use designations presented in the Land Use Map, including density, intensity, and use standards applicable to each land use designation.

Policy LU-1B: Ensure new development supports the protection and maintenance of environmental and open spaces resources.

Policy LU-1C: Support infill development, consolidation of parcels, and adaptive reuse of existing buildings.

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

Policy LU-2D: Maintain and protect residential neighborhoods by avoiding encroachment of incompatible land uses.

Policy LU-3A: Ensure that future development and reuse projects are consistent with the Land Use Map to provide connections between existing neighborhoods and city attractions.

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-4A: Encourage a mix of residential types to accommodate people with diverse housing needs.

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

Goal LU-13: The city provides opportunities for new businesses and employees to ensure a high quality of life and thriving industry.

Policy LU-13A: Encourage expansion of the range of goods and services provided to accommodate the needs of all residents and the market area.

The proposed development is consistent with the Beach and Edinger Corridors Specific Plan which encourages buildings to orient towards streets, wider walkways, and large open space areas to enhance the pedestrian and public experience. Approximately 2,703 sq. ft. of public open space will be provided in a plaza accessible from Ellis Avenue. This area will be designed with enhanced landscaping, seating areas, and visually appealing amenities. The architecture of the building is contemporary, incorporating notches, major façade offsets, and façade composition changes to break up the massing of the building at street frontages. Brick veneer is applied along the base of the building with canopies at entrances to cater to the pedestrian scale. The façade skyline is then capped with parapets and articulating rooflines. Additionally, this mixed-use development will provide an on-site commercial component and is proposed within close proximity of new and existing commercial uses thus reducing the need for automobile use. By permitting a mix of land uses closer together, greater interaction will occur between developments and further the vision and viability of the BECSP.

Housing Element

Policy 2.1 Variety of Housing Choices: Provide site opportunities for development of housing that responds to diverse community needs in terms of housing types, cost and location, emphasizing locations near services and transit that promote walkability.

Policy 2.2 Residential Mixed Use: Facilitate the efficient use of land by allowing and encouraging commercial and residential uses on the same property in both horizontal and vertical mixed-use configurations.

Policy 2.3 Beach and Edinger Corridors Specific Plan: Encourage and facilitate the provision of housing affordable to lower income households within the Beach and Edinger Corridors Specific Plan.

Policy 6.4 Transportation Alternatives and Walkability: Incorporate transit and other transportation alternatives including walking and bicycling into the design of new development, particularly in areas within a half mile of designated transit stops.

The suggested conditions of approval for Tentative Tract Map No. 18157 would ensure that the project is developed in accordance with the proposed project

narrative and guarantee that the project provides 5 onsite affordable housing units. The project represents new housing in the City that will help to fulfill the City's share of the regional housing need. The proposed project would accommodate and is designed to appeal to different age groups and household types. A minimum of ten percent of the units are required to be designated for affordable housing. The project applicant proposes to provide five on-site affordable housing units in order to comply with the affordable housing requirement. Residents will benefit from the proximity of the project to different activities and uses. The project provides opportunities and convenience for many households to use alternate travel modes such as walking, bicycling, and public transit to complete their daily routines and run errands, thereby serving the need for affordable housing for this segment of the population.

Circulation Element

Goal CIRC-3a: Convenient and efficient connections between regional transit and areas of employment, shopping, recreation, and housing will increase ridership and active mobility, with a focus on first/last mile solutions.

Goal CIRC-6: Connected, well-maintained, and well-designed sidewalks, bike lanes, equestrian paths, and waterways allow for both leisurely use and day-to-day required activities in a safe and efficient manner for all ages and abilities.

Policy CIRC-6(C): Require new commercial and residential projects to integrate with pedestrian and bicycle networks, and that necessary land area is provided for the infrastructure.

The proposed streetscape will create continuity with new and existing development along the Beach Boulevard corridor by providing a sidewalk with new landscaping to buffer pedestrians from the vehicular thoroughfare. Pedestrian connectivity is improved with landscaping and architectural elements through the proposed public open space and wider sidewalks. The project is serviced by an existing bus stop at the intersection of Beach Blvd. and Ellis Ave. and also provides bicycle parking in the subterranean parking structure to accommodate alternative methods of transportation.

CONDITIONS OF APPROVAL – TENTATIVE TRACT MAP NO. 18157:

1. Tentative Tract Map No. 18157 for consolidation of three existing parcels into a one-lot subdivision for a mixed-use 48 unit residential and 891 square feet commercial development received and dated April 23, 2019, shall be the approved layout, including the following:
 - a. The existing 6-foot easement (along the subject site's westerly property line) for Public Utility Purposes shall be quitclaimed to eliminate any encroachment by the proposed water quality basin or the proposed basin shall be relocated to eliminate any encroachments into said easement.

- b. The existing 20-foot easement, over existing Parcels 1 and 2 (along the subject site's westerly property line) for Ingress and Egress Purposes shall be quitclaimed to eliminate any encroachment by the proposed building or the proposed building shall be relocated to eliminate any encroachments into said easement.
2. The Final Map for Tentative Tract Map No. 18157 shall not be approved by the City Council until Conditional Use Permit No. 17-042 is approved and in effect.
3. Prior to issuance of a grading permit and at least 14 days prior to any grading activity, the applicant/developer shall provide notice in writing to property owners of record and tenants of properties within a 500-foot radius of the project site as noticed for the public hearing. The notice shall include a general description of planned grading activities and an estimated timeline for commencement and completion of work and a contact person name with phone number. Prior to issuance of the grading permit, a copy of the notice and list of recipients shall be submitted to the Community Development Department.
4. The following shall be shown as a dedication to the City of Huntington Beach on the Final Tract Map (HBZSO 230.84 (A) & 253.10 (K)) **(PW)**:
 - a. A 4-foot right-of-way dedication for street purposes along the Ellis Avenue project frontage for a curb to property line width of 12 feet. (BECSP)
5. Prior to issuance of building permits, an Affordable Housing Agreement (AHA) shall be submitted to the Departments of Community Development and Economic Development identifying three on-site units for-sale as affordable for persons and families of moderate income and two on-site units for-sale as affordable for persons and families of low income pursuant to Section 230.14 of the HBZSO. The AHA shall identify five on-site units for rent as affordable for persons and families of low income in the event the project is operated as rental apartment units. The Affordable Housing Agreement shall be reviewed and approved by the City Council and shall be recorded with the Orange County Recorder's Office prior to issuance of the first building permit for the tract. The Agreement shall comply with HBZSO Sections 230.14 and 230.26 and include:
 - a. A detailed description of the type, size and location of the five affordable housing for-sale units on-site. The mix of designated affordable one bedroom and two bedroom units shall be determined in the Agreement.
 - b. There shall be three on-site units for sale as affordable to persons and families of moderate income (up to 120% of the Orange County median income). There shall be two on-site units for sale as affordable to persons and families of low income (up to 80% of the Orange County median income). The Orange County median income is adjusted for appropriate household size.
 - c. In the event the project is operated as rental apartment units, the Agreement shall identify five on-site units for rent as affordable to persons and families of low income (up to 80% of the Orange County median income). The Orange County median income is adjusted for appropriate household size.
 - d. Continuous affordability provisions for a period of 45 years (for-sale units) and 55 years (rental units). Any required for-sale affordable units shall be owner-occupied (not rented or leased).

- e. Provisions for the affordable units to be constructed prior to or concurrent with the primary project. Phasing and availability of the affordable units shall be concurrent with final approval (occupancy) of the first market rate residential unit(s), or contingent upon evidence of the applicant's reasonable progress towards attainment of completion of the affordable units.
6. Prior to submittal of the Final Map and at least 90 days before City Council action on the Final Map, CC&Rs shall be submitted to the Community Development Department and approved by the City Attorney. The CC&Rs shall identify:
- a. The common driveway access easements
 - b. Maintenance of all walls, common landscape areas, and refuse management by the Homeowners' Association
 - c. Management of the BMPs per the approved WQMP by the Homeowners' Association
 - d. Management of the revised Parking Management Plan pursuant to CUP No. 17-042 Condition No. 2 to ensure the ongoing control and availability of on-site parking.

The CC&Rs must be in recordable form prior to recordation of the map. **(HBZSO Section 253.12.H)**

7. Comply with all applicable Conditional Use Permit No. 17-042 conditions of approval.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 17-042:

- 1. The site plan, floor plans, and elevations received and dated April 23, 2019 shall be the conceptually approved design with the following modifications:
 - a. Depict the controlled access entry gate to the subterranean parking garage discussed in the Parking Management Plan.
 - b. The proposed 10 ft. high perimeter block wall shall be revised to a maximum of 8 ft. high, including up to 2 ft. of retaining wall in accordance with Condition of Approval No. 6.a.
- 2. The Parking Management Plan dated April 22, 2019 shall be revised to include the following:
 - a. Required parking shall be assigned to and reserved for each unit. Each unit shall be assigned two reserved parking spaces.
 - b. The assigned residential parking spaces shall be provided with the rental of a dwelling unit without any additional cost. (HBZSO 231.18 (D)(2))
- 3. Comply with all mitigation measures adopted for the project in conjunction with Environmental Impact Report No. 08-008 as specified in the Mitigation Monitoring Program for Ellis Ave. Condos.
- 4. Block wall/fencing plans (including a site plan, section drawings, and elevations depicting the height and material of all retaining walls, walls, and fences) consistent with the grading plan shall be submitted to and approved by the Community Development Department. Double

walls shall be avoided to the greatest extent feasible. Applicant shall coordinate with adjacent property owners and make reasonable attempts to construct one common property line wall. If coordination between property owners cannot be accomplished, the applicant shall construct up to an eight (8') foot tall wall (including up to 2 ft. of retaining wall) located entirely within the subject property and with a two (2) inch maximum separation from the property line. The plans shall include some mechanism to close and secure any gaps. Prior to the construction of any new walls, a plan must be submitted identifying the removal of any existing walls located on the subject property. Plans shall depict any removal of walls on private residential property and construction of new common walls and sidewalls, and shall include approval by property owners of adjacent properties. The plans shall identify materials, seep holes and drainage.

5. At least 14 days prior to any grading activity, the property owner/developer shall provide notice in writing to property owners of record and tenants of properties within a 500-foot radius of the project site as noticed for the public hearing. The notice shall include a general description of planned grading activities and an estimated timeline for commencement and completion of work and a contact person name with phone number. Prior to issuance of the grading permit, a copy of the notice and list of recipients shall be submitted to the Community Development Department.
6. Prior to issuance of a grading permit, the following shall be completed:
 - a. The proposed drainage pattern and system shall be reevaluated to reduce potential grading impacts on the adjacent properties to the north, east, and west by incorporating localized collection points and result in a maximum two ft. grade differential and maximum two ft. high retaining wall. The retaining wall may be topped with a maximum six ft. high block wall.
 - b. The existing 6-foot easement (along the subject site's westerly property line) for Public Utility Purposes shall be quitclaimed to eliminate any encroachment by the proposed water quality basin or the proposed basin shall be relocated to eliminate any encroachments into said easement. **(PW)**
 - c. The existing 20-foot easement over existing Parcels 1 and 2 (along the subject site's westerly property line) for Ingress and Egress Purposes shall be quitclaimed to eliminate any encroachment by the proposed building. **(PW)**
 - d. An interim parking and building materials storage plan shall be submitted to the Planning Division to assure adequate parking and restroom facilities are available for employees, customers and contractors during the project's construction phase and that adjacent properties will not be impacted by their location. The plan shall also be reviewed and approved by the Fire Department and Public Works Department. The property owner/developer shall obtain any necessary encroachment permits from the Department of Public Works.
 - e. All design and construction shall be per the City Standard codes and street configuration and specifications of the Beach and Edinger Corridors Specific Plan. The frontage along Ellis Avenue shall comply with the "Neighborhood Streets" configuration.

- f. A lighting plan depicting the boulevard-scale street lighting and pedestrian-scale street lighting along Ellis Ave. shall be submitted to the Community Development Department for review and approval by the Planning Division and Public Works Department.
7. Prior to submittal for building permits, the following shall be completed:
 - a. Zoning entitlement conditions of approval shall be printed verbatim on one of the first three pages of all the working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical and plumbing) and shall be referenced in the sheet index. The minimum font size utilized for printed text shall be 12 point.
 - b. Submit three (3) copies of the site plan and the processing fee to the Community Development Department for addressing purposes after street name approval by the Fire Department.
 - c. Contact the United States Postal Service for approval of mailbox location(s).
 - d. One set of project plans revised pursuant to Condition No. 1 and one 8 ½ inch by 11 inch set of all colored renderings, elevations, and materials sample and color palette, revised pursuant to Condition of Approvals and Code Requirements, shall be submitted for review, approval, and inclusion in the entitlement file, to the Planning Division.
8. Prior to issuance of building permits, the following shall be completed:
 - a. The applicant shall submit plans revised pursuant to Condition No. 1 to Republic Services for review. Proof of Republic Services approval shall be submitted to the Community Development Department.
 - b. Submit a copy of the revised site plan, floor plans and elevations pursuant to Condition No. 1 for review, approval, and inclusion in the entitlement file to the Community Development Department.
 - c. A Fire Master Plan shall be submitted and approved by the Fire Department. The Fire Master Plan shall include but is not limited to the following:
 - i. Building locations, height and stories, addresses, and construction type;
 - ii. Property dimensions or accurate scale;
 - iii. Fire hydrant locations, public and private;
 - iv. FDC locations;
 - v. Fire sprinkler riser locations and location of system serving;
 - vi. FACP locations;
 - vii. Knox box and knox switch locations;
 - viii. Gate locations, and opticoms if required;
 - ix. Fire lane locations, dimensions, lengths, turning radii at corners and circles/cul-de-sacs;
 - x. Fire lane signage and striping.
 - xi. The conceptual Alternative Materials and Methods Strategy shall be finalized to demonstrate compliance with exterior hose pull distance requirements. **(FD)**
 - d. Modify the plans to incorporate the following:

- i. A public fire hydrant on Ellis Avenue.
- ii. An onsite private fire hydrant.
- iii. The three stairs in compliance with the interior and exterior exit stair requirements stated in Section 1023 and 1027 of the 2019 California Fire Code.
- iv. The interior stairs with a 2-hour fire rated assembly (Section 1023.2 of the 2019 California Fire Code).
- v. An exterior exit door from the north stair for the first floor north corridor (Section 1020.4 of the 2019 California Fire Code).
- vi. Fire department pads with proper access to units 2E, 2F, 2G, 3F, 3G, and 3H (Section 1030.1 of the 2019 California Fire Code).
- vii. The following enhancements to the An Alternative Materials and Methods (AM&M) proposal (in lieu of achieving the 150 ft. hose pull requirement) shall be installed:
 - a. An additional exterior first floor class 1 standpipe connection in the area that exceeds the 150 ft. hose pull requirement.
 - b. A graphic fire alarm annunciator.
 - c. All in-unit smoke alarms will be upgraded to smoke detectors that will tie into the fire alarm system and report as a supervisory signal.
 - d. Upgrade the fire sprinkler system as follows:
 - i. Install a redundant fire sprinkler riser so each floor can be supplied by two independent fire sprinkler risers.
 - ii. Increase the fire sprinkler density in the residential units to Ordinary Hazard – Group 1.
 - iii. Increase the fire sprinkler density in the parking garage to Ordinary Hazard – Group 2.

9. Prior to occupancy of the first dwelling unit, the following shall be completed:

- a. The proposed driveway approach on Ellis Avenue shall be constructed per Public Works Standard Plan No. 211. The driveway design shall include treatments for right-turn in/right-turn out only as specified by Public Works. This may include raised curb channelization, striping, and signage. (ZSO 230.84)
- b. The Developer shall provide a Landscape Maintenance License Agreement for the continuing maintenance and liability of all landscaping, irrigation, street lighting, furniture and hardscape that is located along the project frontage within the public right-of-way. The agreement shall describe all aspects of maintenance such as enhanced sidewalk cleaning, trash cans, disposal of trash, signs, tree or palm replacement and any other aspect of maintenance that is warranted by the development plan improvements proposed. The agreement shall state that the property ownership shall be responsible for all costs associated with the maintenance, repair, replacement, liability and fees imposed by the City. **(PW)**
- c. All existing overhead utilities that occur along the project's Ellis Avenue frontage shall be under-grounded. This includes the Southern California Edison (SCE) aerial distribution lines (12kV) and poles along the entire length of the westerly frontage of the subject project. This condition also applies to all utilities, including but not limited to all telephone, electric, and Cable TV lines. If require, easements shall be quitclaimed and/or new easements granted to the corresponding utility companies. **(PW)**

10. The use shall comply with the following:

- a. All ground floor entry points to residences shall be monitored by secured FOB type entries.
(PD)

11. The developer or developer's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
12. CUP No. 17-042 shall become null and void unless exercised within two years of the date of the final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Community Development Department a minimum 30 days prior to the expiration date.
13. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/green-building-guidelines-rating>).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.