

AGREEMENT

MADE THIS 30 DAY OF APRIL, 1997

BY AND BETWEEN:

DeWolf Road Associates, LLC, a limited liability company of the State of New Jersey with offices located at 69 Spring Street, Ramsey, New Jersey 07446 (hereinafter "DeWolf Associates");

AND

The Village at Old Tappan, LLC, a limited liability company of the State of New Jersey with offices located at 225 Highway 35, Red Bank, New Jersey 07701 (hereinafter "The Village");

AND

Otap Oxford Holding, Inc, a New Jersey corporation with mailing address c/o Dorfman Lynch & Knobel, 51 North Broadway, Nyack, New York 10960 (hereinafter "Otap");

AND

The Borough of Old Tappan, a municipal corporation of the State of New Jersey with offices located at 227 Old Tappan Road, Old Tappan, New Jersey 07675 (hereinafter "the Borough");

W I T N E S S E T H :

WHEREAS, DeWolf Associates is a contract purchaser of a planned residential development consisting of 80 residential units known as Dorotockey Run (hereinafter "Dorotockey Run PRD"); and

WHEREAS, DeWolf Associates desires to develop Dorotockey Run PRD provided it is able to obtain and/or amend certain development approvals as more specifically described hereinbelow; and

WHEREAS, by Resolution adopted on February 7, 1996, the New Jersey Council On Affordable Housing (hereinafter "COAH") granted the Borough's housing element and fair share

plan substantive certification based on its fair share number of 98 units of affordable housing as more particularly set forth therein; and

WHEREAS, the approved housing element and fair share plan provides that 16 affordable housing units are to be constructed at Dorotockey Run; and

WHEREAS, The Village is the owner and developer of The Village, a Condominium, a planned residential development consisting of 139 residential units (hereinafter "The Village PRD"); and the approved housing element and fair share plan provides that nine units of affordable housing are to be constructed at The Village PRD; and

WHEREAS, Otap is the owner and developer of Le Chateau, a planned residential development consisting of 58 residential units (hereinafter "Le Chateau PRD"); and the approved housing element and fair share plan provides that 12 units of affordable housing are to be constructed at Le Chateau PRD; and

WHEREAS, DeWolf Associates, The Village and Le Chateau ("the Developers") have proposed the transfer of their respective affordable housing obligations to a Borough-owned site on which an affordable housing rental project consisting of two building would be constructed which would be intended to satisfy the Borough's fair share obligation under the Fair Housing Act and COAH's regulations;

NOW THEREFORE, in furtherance of the foregoing premises and other good and valuable consideration, the parties hereto agree as set forth hereinafter:

1. The COAH Obligation. COAH has granted substantive certification to the Borough's housing element and fair share plan based on the Borough's obligation to provide 98 units of affordable housing. The Borough's housing element and fair share plan provides for the

construction of sufficient affordable housing units for credit for 103 units of affordable housing. Of the 103 units credited, a total of 37 units of affordable housing are to be constructed at Dorotockey Run PRD, The Village PRD and Le Chateau PRD.

2. The Proposal. In summary, the proposal advanced by the Developers is for DeWolf Associates to construct a 20 unit affordable rental housing project on Borough-owned property in lieu of constructing the 16 affordable housing units within Dorotockey Run PRD. The rental housing project would be financed in part by contributions from The Village in lieu of constructing the nine units within The Village PRD and from Otap in lieu of constructing 12 units within Le Chateau PRD. The 20 unit affordable rental housing project is designed to meet the Borough's fair share obligation of 98 units of affordable housing. The 20 unit affordable rental housing project would consist of two buildings (one having a floor area of approximately 13,240 square feet and the other having a floor area of approximately 5400 square feet) together with related site improvements to be constructed upon Lot 3 in Block 1605 as the same are conceptually depicted upon the exhibit attached hereto as Map A. The rental housing project would then be dedicated to the Borough.

3. The Conditions. DeWolf Associates shall be obligated to construct the affordable rental housing project provided the following conditions are met:

3.01. DeWolf Associates shall have been granted all permits, licenses and approvals required by any governmental authority for: (a) the development of Dorotockey Run with at least 23 building lots each with a minimum of 100 feet of street frontage approximately as depicted on Map B; and (b) the construction of the affordable rental housing project on Borough-owned property as more particularly described hereinabove in lieu of constructing affordable housing on-

site. Approvals required include, but are not limited to, the following: amendments by the Planning Board to the housing element and fair share plan consistent with the proposal; a petition to amend the Borough's substantive certification to be filed with COAH; zoning amendments consistent with the proposal; and amendments to the preliminary site plan approval for the Dorotockey PRD and/or preliminary and final major subdivision approval for said project.

3.02. The Village shall have been granted all permits, licenses and approvals required by any governmental authority for: (a) the addition of 24 market residential units to the Village PRD and the construction of nine market residential units in lieu of constructing nine affordable housing units on-site as depicted upon Map B; and (b) a contribution towards the construction of the affordable housing rental housing project on Borough-owned property in lieu of constructing the nine affordable housing units on-site. Approvals required include, but are not limited to, amendments to the preliminary and final site plan approvals for The Village PRD.

3.03. Otap shall have been granted all permits, licenses and approvals required by any governmental authority for: (a) the construction of 12 market residential units in lieu of constructing 12 affordable housing units on-site; and (b) a contribution towards the construction of the affordable housing rental housing project on Borough-owned property in lieu of constructing the 12 affordable housing units on-site. Approvals required include, but are not limited to, amendments to the preliminary and final site plan approvals for Le Chateau.

3.04. The Borough shall have obtained all permits, licenses and approvals required by any governmental authority for the construction of the 20 unit affordable rental housing project as described hereinabove.

3.05. All ordinances, permits, approvals, licenses or grants required for the actions contemplated under this agreement shall have been duly adopted and published and appeals from same, if any, have been exhausted.

3.06. DeWolf Associates and the Borough shall have agreed to the plans and specifications for the 20 unit affordable rental housing project as described hereinabove for the purpose of determining the extent of the obligation of DeWolf Associates in the event all conditions are satisfied.

3.07. The Borough shall have entered into Developers Agreements or amendments to existing Developers Agreements consistent herewith with DeWolf Associates for the development of Dorotockey Run PRD, with The Village for the development of The Village PRD and with Otap for the development of Le Chateau PRD.

DeWolf Associates, The Village and Otap shall diligently pursue all approvals contemplated hereunder.

4. Use of Contributions From Other Developers. Should all of the conditions be met or waived as set forth in paragraph 5 hereinbelow, contributions from developers in lieu of constructing affordable housing units on-site, including but not limited to, contributions from The Village, Otap and Limmer Commercial Refrigerator Company, shall be utilized for the partial financing of the construction of the affordable housing rental project on Borough-owned property. All other costs and expenses of construction of the affordable housing rental project shall be borne by DeWolf Associates.

5. Waiver of Conditions. In the event The Village and/or Otap is unable or unwilling to make the contribution(s) contemplated in conditions 3.02 and 3.03 hereinabove within 60 days

of the granting of all permits, licenses and approvals for that developer as set forth in condition 3.02 (for The Village) or 3.03 (for Otap) or within 60 days of the granting of all permits, licenses and approvals as set forth in condition 3.01 hereinabove, whichever is later, DeWolf Associates may, in its discretion, waive conditions 3.02 and/or 3.03 as set forth hereinabove. It is understood that each of the Developers shall prosecute their respective applications diligently and in good faith and that this waiver provision and, more specifically, the timing of payment for payment by The Village and Otap as set forth hereinabove, is based on the assumption that the Developers will prosecute their respective applications diligently and in good faith. In the event DeWolf Associates elects to waive condition 3.03 in accordance herewith, in lieu of utilizing the contribution from Otap to finance in part the construction of the affordable rental housing project, DeWolf Associates shall have the right to market credits for 12 affordable housing units to any other developer within the Borough with whom the Borough has entered into a developer's agreement. This right to market the 12 credits shall be subject to COAH approval. The Borough agrees to cooperate in such efforts to obtain COAH's approval provided there is no cost to the Borough.

6. *The Borough Is Under No Obligation.* It is understood by all parties that the Borough, by entering into this Agreement, is not obligated to amend the Borough's housing element, petition COAH to amend the Borough's substantive certification, rezone any properties, amend any development approvals consistent with the approvals, or enact or adopt any ordinance or resolution, or execute any agreement consistent with the proposal. It is understood that, the implementation of the proposal contemplated hereunder, is necessarily subject to compliance with all procedures required under the Borough's ordinances, the Municipal Land Use Law, the Fair

Housing Act, COAH's regulations, and any other applicable statutes or regulations. This Agreement only obligates DeWolf Associates to construct the 20-unit rental housing project in the event the conditions as detailed in paragraph 3 hereinabove are met.

7. Termination of Agreement. In the event any of the conditions set forth in paragraph 3 are not satisfied, then this Agreement shall be null and void and all parties shall be deemed to have the rights and/or obligations existing immediately preceding the execution of this Agreement, i.e., the parties shall be returned to the *status quo ante*.

8. Construction of the Affordable Rental Housing Project. It is contemplated that the affordable rental housing project will be constructed simultaneously with the development of Dorotockey Run PRD and The Village PRD.

9. Escrow for Professional Fees. In addition to those escrow deposits required by the Borough's ordinances for development applications, DeWolf Associates shall post with the Borough the sum of \$20,000 to be placed in a Borough trust account for legal, planning and engineering fees to be incurred in considering and implementing the proposal as outlined herein. Said funds in trust will be utilized by the Borough to pay all of its legal, planning and engineering expenses incurred in reviewing and implementing this proposal including, but not limited to, attendance at meetings to the extent not covered by retainer agreements or by escrow deposits in connection with a development application, amending the housing element and fair share plan, preparation of zoning ordinance amendments and preparing and prosecuting a petition to amend its substantive certification. Said legal, planning and engineering expenses will be paid on vouchers duly submitted by the respective Borough professionals and approved by the Mayor and Council. The Borough is to incur no costs in reviewing and implementing this proposal.

If at any time during the review or implementation of the proposal, the funds in trust have been expended or the trust account contains insufficient funds to enable the Borough or the Planning Board to continue to review or implement the proposal, the chief financial officer of the Borough shall provide the DeWolf Associates with a notice of the insufficient trust account balance, and DeWolf Associates shall post an additional sum to the trust account in an amount to be determined by the Borough.

10. Notices. No notice under this contract shall be effective unless the same is in writing and is mailed by registered or certified mail, postage prepaid, addressed to the parties at the addresses first noted hereinabove.

11. Applicable Law. This Agreement and the performance hereof shall be governed, interpreted, construed and regulated by the laws of the State of New Jersey.

12. Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

13. Interpretation. Wherever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require. This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

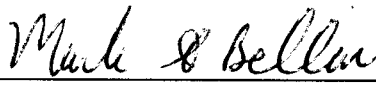
14. Entire Agreement. This Agreement sets forth all of the promises, agreements, conditions and understandings between the parties hereto relative to the subject matter hereof, and there are not promises, agreements, conditions or understandings, either written or oral, expressed or implied, between them, other than as herein set forth. Except as herein otherwise specifically provided, no subsequent alterations, amendments, changes or additions to this Agreement shall be binding upon either party unless reduced to writing and signed by each party.

15. Successors and Assigns Bound. The covenants and agreements contained herein shall be binding on the parties to this Agreement and on their respective successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals or caused these presents to be executed and sealed by their proper corporate officer.

ATTEST:

DEWOLF ROAD ASSOCIATES, LLC



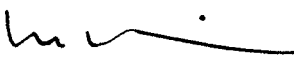
MARK S. BELLIN, SECRETARY
MANAGING
MEMBER



MAZIN A. KALLAN, PRESIDENT, MANAGING
MEMBER
THE VILLAGE AT OLD TAPPAN, LLC

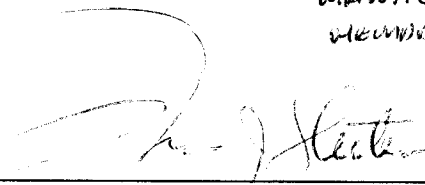


MARK S. BELLIN, SECRETARY
MANAGING
MEMBER

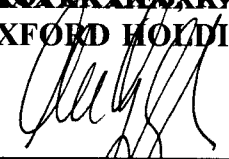


MAZIN A. KALLAN, PRESIDENT, MANAGING
MEMBER

~~OTAP PROPERTIES, INC.~~
OTAP OXFORD HOLDING, INC.

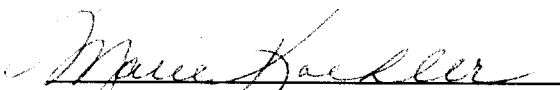


Thomas J. Herten

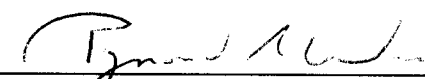


Abraham Goldberger, President

BOROUGH OF OLD TAPPAN



Marie Koehler, Borough Clerk



Raymond R. Wiss, Mayor

STATE OF NEW JERSEY :
 : ss.
COUNTY OF MONMOUTH :

BE IT REMEMBERED, that on this 26 day of March, 1997, before me, the subscriber, a notary public of the State of New Jersey, personally appeared Mazin A. Kalian, who being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is (a) president of Kalian Investments, Inc., a member of DeWolf Road Associates, LLC, the limited liability company named in the within instrument; and (b) as such member, signed and sealed and delivered this instrument as the voluntary act and deed of the limited liability company, made by virtue of authority from all of the Members, that the execution as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said corporation; that deponent well knows the corporate seal of said Kalian Investments, Inc.; and that the seal affixed to said Instrument is the proper corporate seal said Mazin A. Kalian as and for the voluntary act and deed, in presence of deponent, who thereupon subscribed his name thereto as attesting witness.

Sworn and Subscribed to
before me this 26 day
of March, 1997.

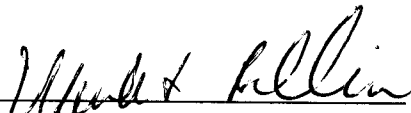


MARK S. BELLIN
ATTORNEY AT LAW

STATE OF NEW JERSEY :
: ss.
COUNTY OF MONMOUTH :

BE IT REMEMBERED, that on this 26th day of March, 1996 before me, the subscriber, personally appeared MAZIN A. KALIAN, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is the President of Kalian Corporation, Inc., a New Jersey Corporation and the General Partner of Kalian Associates, the Managing Member of Kalian at Old Tappan, the Managing Member of The Village at Old Tappan, LLC, a New Jersey Limited Liability Company named in the within Instrument; that the execution as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Corporation; and said Instrument signed and delivered by said Corporation as and for the voluntary act and deed of said Corporation, in presence of deponent, who thereupon subscribed his name thereto as attesting witness.

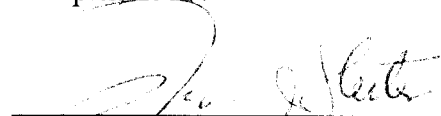
Sworn to and subscribed before me,
the date aforesaid


MARK S. BELLIN
Attorney At Law
Of The State Of New Jersey

STATE OF NEW JERSEY :
 : ss.
COUNTY OF BERGEN :

BE IT REMEMBERED, that on this 20 day of April, 1997, before me, the subscriber, personally appeared Abraham Goldberger, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is the President of Otap Oxford Holding, Inc., a New Jersey Corporation named in the within Instrument; that he is the President of said corporation; that the execution as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Otap Oxford Holding, Inc.; that deponent well knows the corporate seal of said corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said Abraham Goldberger as and for the voluntary act and deed of said corporation, in presence of deponent, who thereupon subscribed his name thereto as attesting witness.

Sworn to and subscribed
before me, this 20 day
of April, 1997.



Thomas J. Hertey
Attorney at Law
State of New Jersey



Abraham Goldberger, President

STATE OF NEW JERSEY }

} SS:

COUNTY OF BERGEN }


Marie Koehler

Sworn to and subscribed to
before me this 3rd day of
March, 1997.

Christine M. Carroll

Notary Public, State of New Jersey
My Commission expires: 5/1/10

BOROUGH OF OLD TAPPAN
227 Old Tappan Road
Old Tappan, N J 07675

CHRISTINE M. CAUVET
NOTARY PUBLIC, STATE OF NEW JERSEY
My Commission Expires May 11, 1997