PROFFERS

KUSTOM KASTLES, L.L.C.

RZ 2003-LE-053

March 29, 2004

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the undersigned Applicant and Owners, for themselves and their successors and assigns (hereinafter referred to as the "Applicant"), filed for a rezoning for property identified on Fairfax County Tax Map as 90-2 ((12)) Parcel 3, (hereinafter referred to as the "Application Property"), hereby agree to the following Proffers, provided that the Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves a rezoning of the Application Property to the R-4 Zoning District, as proffered herein.

1. GENERALIZED DEVELOPMENT PLAN (GDP)

a. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Ordinance"), development of the Application Property shall be in substantial conformance with the Generalized Development Plan (GDP) / Variance (VC) Plat, prepared by Target Engineering, Inc., dated July 30, 2003, and revised through February 13, 2004.

b. Pursuant to Section 18-204 of the Zoning Ordinance, minor modifications from the approved GDP may be permitted as determined by the Zoning Administrator. The layout shown on the GDP may be modified provided such changes are in substantial conformance with the GDP and proffers, and do not increase the total number of units or decrease the minimum amount of open space, tree save area, or peripheral setbacks of units.

2. LANDSCAPING AND OPEN SPACE

a. The yards of each lot shall be planted in substantial conformance with the lot landscaping as depicted on the GDP.

b. At the time of planting, the minimum caliper for deciduous trees shall be three (3) inches and the minimum height for evergreen trees shall be seven (7) to eight (8) feet. Actual types and species of vegetation shall be specified pursuant to more detailed landscape plans approved by Urban Forestry Division at the time of final subdivision plan approval. Such landscape plans shall provide tree coverage and species diversity consistent with the Public Facilities Manual criteria, as determined by Urban Forestry Division.

c. Existing vegetation shall remain unless otherwise noted on the GDP to be removed.

3. ARCHITECTURE

a. The building elevations for the proposed dwelling units shall be in character with the illustrative elevation as shown on the GDP, as determined by DPWES.

b. The sides of houses on Lots 2, 3, 4, and the option for Lot 1, which face a public street, shall consist of brick, cementatious board, or stone.

c. The house on proposed Lot 1 may be retained and renovated. In the event the Applicant elects to demolish the house and replace it, the new structure shall be in substantial conformance as to size and location as shown on the Lot 1 option shown on the GDP and shall meet all required setbacks for the R-4 District. The building elevation for the new dwelling shall be in character with the elevation as shown on the GDP, as determined by DPWES.

d. There shall be no driveway access onto Franconia Road.

4. TREE PRESERVATION

a. The Applicant shall submit a tree preservation plan as part of the first and all subsequent subdivision plan submissions in conformance with the tree save areas shown on the GDP. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and reviewed and approved by the Urban Forestry Division.

b. The Applicant agrees to 1) root prune, 2) mulch, and 3) provide tree protection fencing along the limits of clearing and grading if determined necessary by the Urban Forestry Division. All three treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets and demolition plan sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by the Urban Forestry Division, and may include, but not be limited to the following:

- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.

- Root pruning shall take place prior to any clearing and grading, or demolition of structures.

- Root pruning shall be conducted with the supervision of a certified arborist.

- Tree protection fence shall be installed immediately after root pruning, and shall be positioned directly in the root-pruning trench and backfilled for stability, or just outside the trench within the disturbed area.

- Immediately after the phase II E&S activities are complete, mulch shall be applied at a depth of 4 inches extending 10 feet inside the undisturbed area without the use of motorized equipment.

- An Urban Forestry Division representative shall be informed when all root pruning and tree protection fence installation is complete.

c. The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an Urban Forestry Division representative to determine where minor adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading. Trees that are not likely to survive construction due to their species and/or their proximity to disturbance will also be identified at this time, and the Applicant shall be given the option of removing them as part of the clearing operation. Any tree that is designated for removal at the edge of the limits of clearing and grading or within a tree preservation area shall be removed using a chain saw to avoid damage to surrounding trees. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to the adjacent trees.

d. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing using four foot high, 14-guage welded wire attached to 6-foot steel posts driven 18 inches into the ground and placed no further than 10-feet apart, shall be erected at the limits of clearing and grading as shown on the GDP.

5. HOUSING TRUST FUND

At the time of the first building permit issuance, the Applicant shall contribute a sum equal to one-half of one percent (1/2 of 1%) of the projected sales price of new homes to be built on the site to the Fairfax County Housing Trust Fund, as determined by the Department of Housing and Community Development in consultation with the Applicant to assist the County in its goal to provide affordable dwelling elsewhere in the County.

6. SIGNS

a. No temporary signs (including "Popsicle" style paper or cardboard signs), which are prohibited by Article 12 of the Zoning Ordinance or Chapter 7 of Title 33.1,

or Chapter 8 of Title 46.2 of the Code of Virginia, 1950 as amended, shall be placed on or off site by the Applicant or at the Applicant's direction, to assist in the initial sale of homes on the Application Property. The Applicant shall direct its agents and employees involved in marketing and/or home sales for the Application Property to adhere to this proffer.

b. Subject to Fairfax County, VDOT and other public utility companies' approval, the Applicant shall record a sign easement within the land records of Fairfax County and install a community identification sign which includes the words "Springfield Forest" within lot 4 at the intersection of Franconia Road and Elder Avenue. Notice of the easement shall be given to the prospective purchasers of lot 4, prior to contract of sale. However, prior to any sign permit being issued for the sign on proposed Lot 4, the Applicant shall vacate the existing sign easement on proposed Lot 3.

7. ENERGY EFFICIENCY

All homes constructed on the Property shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by DPWES, for either electric or gas energy systems.

8. GARAGES AND DRIVEWAYS

a. A covenant shall be placed on each unit that prohibits the use of the garage for any use that prohibits the parking of vehicles. This covenant shall be recorded among the land records of Fairfax County prior to the sale of lots and shall run to the benefit of the Board of Supervisors. Prior to recordation, the covenant shall be approved by the Fairfax County Attorney's office. Prior to entering into contract of sale this restriction shall be disclosed to prospective purchasers.

b. All driveways shall be a minimum of 18-feet in length.

c. Prior to entering into contract of sale, prospective buyers shall be provided with a copy of a joint maintenance agreement for the driveway to be executed by all lot purchasers and recorded among the land records.

d. The shared driveway shall have a minimum width of 12 feet.

9. SCHOOL CONTRIBUTION

At time of subdivision plat approval, the Applicant shall contribute the sum of $15,000 to the Board of Supervisors for public schools in the Lee District. The Applicant shall provide documentation of the donation to DPWES at the time of subdivision plan submission.

10. NOISE

a. Prior to final Subdivision Plan approval, the Applicant shall provide a noise analysis based on final grades and future traffic volumes on Franconia Road, projected to the year 2020, to DPWES and DPZ for review and approval in accordance with DPZ's established guidelines for such noise analysis. The noise analysis shall utilize standard measures to evaluate noise acceptable to DPZ, and shall demonstrate that exterior noise levels for both ground and upper story levels of any unit does not exceed DNL 75 dBA and that exterior noise within the side and rear privacy yards are reduced to below DNL 65 dBA.

b. In order to reduce interior noise to a level of approximately 45 dBA Ldn residential units within a highway noise impact zone of 65-70 dBA Ldn as determined by the study in 10a above, the Applicant shall employ the following acoustical treatment measures:

- Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.

- Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20 percent of any facade exposed to noise levels of 45 dBA Ldn or above. If glazing constitutes more than 20 percent of an exposed facade, then the glazing shall have an STC rating of at least 39.

- All surfaces shall be sealed and caulked in accordance with methods approved by the American Society of Testing and Materials (ASTM) to minimize sound transmission.

c. In order to mitigate exterior noise in side and rear privacy yards, a 6-foot tall solid wooden fence from the ground up with no gaps or openings shall be constructed within the individual lots as shown on the GDP.

d. All units that require interior or exterior structural noise alteration shall be identified on the subdivision plan.

11. LIGHTING

All exterior lights shall be in conformance with Part 9 of Article 14 of the Zoning Ordinance.

12. STORMWATER MANAGEMENT AND BMPS

Innovative Stormwater Management and BMPs shall be provided as determined by DPWES. Such measures may include, but not be limited to:

- Using porous pavers on the driveways;
- Gravel infiltration trenches or grass swales on driveway edges;
- Rain gardens within individual lots.

Maintenance responsibility and schedule for the innovative Stormwater Management and BMP techniques shall be disclosed at the time of contract of sale. If proposed Stormwater Management and BMP measures as determined by DPWES are not in substantial conformance with the GDP a proffered condition amendment will be required.

13. ARCHAEOLOGICAL STUDY

Prior to any land disturbing activities on the Application Property, the Applicant shall conduct a Phase I archaeological study, and if necessary, a Phase II archaeological study on those areas of the Application Property as coordinated with the Cultural Resource Protection Section (CRPS) of the Fairfax County Park Authority. Such work will be in accordance with a scope of work approved by CRPS. A qualified archaeological professional approved by CPRS shall perform the studies. The studies shall be completed prior to subdivision plan approval. If the Phase I and/or Phase II studies conclude that significant artifacts are present on the Application Property, CRPS shall notify the Applicant in writing within 60 days of the submission of the study results to CRPS of its desire to conduct additional investigations. If additional investigation is desired, the Applicant shall provide access to the Application Property and up to $4,000 to CRPS so that CRPS may conduct additional investigations for a maximum period of 2 months from the date of notification, provided that said investigations shall not interfere with the proposed construction and development schedule of the Application Property or affect the number of lots or lot layout as shown on the GDP. Additional time may be permitted to conduct such investigations if mutually agreed to by the Applicant and Heritage Resources.

14. PARK CONTRIBUTION

At time of subdivision plan approval, the Applicant shall contribute the sum of $2,650 to the Fairfax County Park Authority for improvements to a nearby Lee District Park.

15. ANNEXATION

The Applicant shall pursue incorporating the application property into the Charleston Collection HOA and be subject to their restrictive covenants. If such incorporation is possible the applicant shall join the Charleston Collection at the time of subdivision plan and shall disclose to prospective purchasers at the time of contract of sale of the maintenance responsibilities associated with being a member of the Charleston Collection HOA, and shall provide the prospective purchasers with a copy of the HOA documents. If such annexation is not possible the applicant shall demonstrate to the Lee District Supervisor and Planning Commissioner in writing why such annexation is not possible.

16. SUCCESSORS AND ASSIGNS

These proffers will bind and inure to the benefit of the Applicant and his or her successors and assigns.

17. COUNTERPARTS

These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

PROFFERS
RZ 2003-LE-053

APPLICANT/TITLE OWNER
of Tax Map 90-2 ((12)) 3

Kustom Kastles L.L.C.

By: _____
Frank W. Smerbeck, Manager

(END OF SIGNATURES)