To Whom It May Concern:

This is to certify that the following is a true copy of Article 36 of the Warrant for the Annual Town Meeting held May 12, 2014 and of the vote passed thereunder.

**ARTICLE 36** To see if the Town will vote to amend Chapter 10 of the General Bylaws known as The Zoning Bylaws by amending Subsection J of Section VI (“Cluster Developments”) as follows:

1. By striking Paragraph 1.(a) and by substituting the following Paragraph 1. (a):

   “(a) Definition – As use herein “Cluster Development” means a planned unit development, as defined in G.L.c.40A Sec. 9, in which residential use and open space use are mixed, with the buildings and accessory uses clustered together into one or more groups separated from adjacent property and other groups within the development by intervening open space (herein referenced as “Open Land”).”

2. By substituting the word “encourage” for the word “permit” in Paragraph 1. (b) (i) and by adding the following sentence:

   “The process for securing approval of an application for Cluster Development is intended to enable such development without unnecessary delays or expense.”

3. By striking Paragraph 4 and by substituting the following Paragraph 4:

   “4. Except as provided herein, in a Cluster Development the number of lots on which single family dwellings may be erected or maintained shall not exceed the number of building lots which would be available in a subdivision, in which: each lot in a Residence AA zone has at least 60,000 square feet of area and at least 150 feet of frontage; each lot in a Residence A district has at least 30,000 square feet of area and at least 125 feet of frontage; each lot in a Residence B district has at least 20,000 square feet of area and at least 100 feet of frontage; each lot in a Residence C district contains at least 7,500 square of area and at least 75 feet of frontage; each lot has a non-wetland area suitable for construction of a dwelling; and there is suitable access to each lot. The Planning Board shall determine these matters on the basis of a preliminary plan which shows a subdivision which in the Planning Board’s opinion would be likely to receive subdivision approval under the Subdivision Control Law with such waivers of the Planning Board’s Rules and Regulations as it would deem reasonable. To the number of building lots so determined one additional building lot shall be added if the development parcel contains at least 425,000 square feet of non-wetland area in a Residence AA district or at least 325,000 square feet of non-wetland area in a Residence A, B or C district. To this number of building lots so determined may also be added one additional building lot to be used for a single family dwelling suitably restricted so as to count on the state’s Subsidized Housing Inventory or its future equivalent. In considering any wetlands issues the Planning Board shall seek the advice of the Conservation Commission.

4. By striking Paragraph 6 and by substituting the following Paragraph 6:

   “6. In a Cluster Development containing less than 10 building lots, an application may provide for an additional building lot to be used for a single family dwelling, suitably restricted so as to count on the state’s Subsidized Housing Inventory (SHI) or its future equivalent, or in lieu thereof the application may provide for a monetary contribution to the Town’s Affordable Housing Trust Fund in an amount which is reasonable as determined by the Planning Board under the relevant circumstances. In a Cluster Development containing 10 or more lots 10% of the lots (rounded to the nearest whole number) shall be suitably restricted so that the single-family dwellings built thereon shall count on the SHI or its future equivalent.”

5. By striking the following sentence in Paragraph 8 “Open Land shall not be used for parking or roadways or any other use of Open Land prohibited by G.L.c. 40A, S9 or successor statutory provision” and by substituting the following sentence:

   “Open Land shall not be used for parking or roadways but may include paths or walkways.”
6. By adding the following sentence to Paragraph 8 after the words “underground utility services.” -
“Open Land may be used for underground septic systems and the underground structures and pipes necessary for such systems, each of which may serve one or more dwellings as approved by the Board of Health.”

7. By striking Paragraph 11 and by substituting the following Paragraph 11:-
“11. The special permit for a Cluster Development may make reasonable provision for daytime foot passage by the public on some or all paths or walkways on Open Land. The use of recreational facilities, not owned by the Town, may be restricted to residents and their guests.”

8. By striking Paragraph 14 and by substituting the following Paragraph 14:
“14.(a) Every application for a special permit for Cluster Development shall include a preliminary plan which shows the number of lots which could be contained in a conventional subdivision meeting the requirements of Paragraph 4. The preliminary plan shall be accompanied by such additional information as the Planning Board deems reasonably necessary for its determination of the number of lots which would likely be possible in a conventional subdivision.

(b) Every application for a special permit for Cluster Development shall include: a Site Plan meeting the requirements of Paragraph 15; copies of all proposed deeds, documents and other instruments required by this Subsection; and such other information deemed reasonably necessary by the Planning Board.”

9. By striking Paragraph 16 and by substituting the following Paragraph 16 –
“16. Every application for a special permit for a Cluster Development under this Subsection shall be referred to the Conservation Commission and Board of Health. The Conservation Commission and Board of Health shall act upon the referral in the same manner as upon an application for subdivision approval under the Subdivision Control Law.”

10. By striking the following sentence in Paragraph 17:
“Prior to the date of the public hearing, the Conservation Commission and Board of Health shall transmit their reports and recommendations to the Planning Board.”

11. By adding the following sentence to Paragraph 17:
“An applicant may require compliance with the timelines set out herein, but deviation from such timelines shall not be cause for constructive approval of the application.”

12. By striking Paragraph 18 and by substituting the following Paragraph 18:
“18. The Planning Board shall grant a special permit for Cluster Development pursuant to the authority of and subject to the conditions in Section IX.C if it finds that the proposed Cluster Development meets the requirements set out in this Subsection, provided that the Planning Board may permit modification of the requirements if it finds that such modifications are needed to enable the application to go forward and if it finds that modifications are reasonable, compliant with the law, consistent with the purpose of this Subsection and without any adverse or undesirable impacts. In granting a special permit for Cluster Development, the Planning Board shall impose any reasonable restrictions or requirements requested by the Conservation Commission or Board of Health and such additional conditions or restrictions which it may deem reasonably necessary to accomplish the purpose or satisfy the requirements of this Subsection.”

VOTED. The Town voted to amend Chapter 10 of the General Bylaws known as The Zoning Bylaws by amending Subsection J of Section VI (“Cluster Developments”) as follows:

J. Cluster Developments.

1. (a) Definition – As used herein “Cluster Development” means a planned unit development, as defined in G.L.c.40A Sec. 9, in which residential use and open space use are mixed, with the buildings and accessory uses clustered together into one or more groups separated from adjacent property and other groups within the development by intervening open space (herein referenced as “Open Land”).

(b) Purpose – This subsection relating to Cluster Development is intended, (i) to encourage development on large tracts of land in a manner which preserves open space and topography, wooded areas, and natural features of substantial portions of those tracts, and (ii) to provide a process requiring careful site planning and high quality design resulting in developments in harmony with the surrounding open spaces, which enhance the neighborhoods in which they occur and the Town as a whole. The process for securing approval of an application for Cluster Development is intended to enable such development without unnecessary delays or expense.
2. A Cluster Development shall be established on a parcel of land in one ownership containing not less than ten (10) acres, provided that the Planning Board may permit a Cluster Development to be established on a parcel of land in one ownership, containing not less than five (5) acres, if the Planning Board determines that such a Cluster Development on the parcel is, under the circumstances, demonstrably superior in design, visual appearance, and land use to a subdivision which meets the usual lot size and frontage requirements of this Section.

3. A Cluster Development may be established in a Residence AA, A, B, or C district or on a parcel of land lying in more than one of such residence districts.

4. Except as provided herein, in a Cluster Development the number of lots on which single family dwellings may be erected or maintained shall not exceed the number of building lots which would be available in a subdivision, in which: each lot in a Residence AA zone has at least 60,000 square feet of area and at least 150 feet of frontage; each lot in a Residence A district has at least 30,000 square feet of area and at least 125 feet of frontage; each lot in a Residence B district has at least 20,000 square feet of area and at least 100 feet of frontage; each lot in a Residence C district contains at least 7,500 square feet of area and at least 75 feet of frontage; each lot has a non-wetland area suitable for construction of a dwelling; and there is suitable access to each lot. The Planning Board shall determine these matters on the basis of a preliminary plan which shows a subdivision which in the Planning Board’s opinion would be likely to receive subdivision approval under the Subdivision Control Law with such waivers of the Planning Board’s Rules and Regulations as it would deem reasonable. To the number of building lots so determined one additional building lot shall be added if the development parcel contains at least 425,000 square feet of non-wetland area in a Residence AA district or at least 325,000 square feet of non-wetland area in a Residence A, B or C district. To this number of building lots so determined may also be added one additional building lot to be used for a single family dwelling suitably restricted so as to count on the state’s Subsidized Housing Inventory or its future equivalent. In considering any wetlands issues the Planning Board shall seek the advice of the Conservation Commission.

5. In a Cluster Development, no dwelling shall be erected or maintained except on a “Buildable Lot”. A “Buildable Lot” is a lot containing not less than 10,000 square feet of land, exclusive of wetlands, and having a frontage deemed adequate by the Planning Board. Not more than one dwelling shall be erected or maintained on any Buildable Lot. Each Buildable Lot shall have a location, size and shape to provide a building site for a dwelling and an attached or unattached garage. No more than thirty–five percent (35%) of the area of any Buildable Lot shall be covered by buildings or other impervious surface unless the Planning Board determines that special circumstances justify a greater coverage.

6. In a Cluster Development containing less than 10 building lots, an application may provide for an additional building lot to be used for a single-family dwelling, suitably restricted so as to count on the state’s Subsidized Housing Inventory (SHI) or its future equivalent, or in lieu thereof the application may provide for a monetary contribution to the Town’s Affordable Housing Trust Fund in an amount which is reasonable as determined by the Planning Board under the relevant circumstances. In a Cluster Development containing 10 or more lots 10% of the lots (rounded to the nearest whole number) shall be suitably restricted so that the single-family dwellings built thereon shall count on the SHI or its future equivalent.

7. All utilities in a Cluster Development, including the wiring for lights on the Open Land, paths, and driveways, shall be placed underground. Subject to the approval of the Planning Board, provision may be made for additional parking areas for the residents and guests of the Buildable Lots. Suitable provision shall be made for ownership and maintenance of such parking areas by the owners of the Buildable Lots.

8. Every Cluster Development shall include “Open Land”, which, for the purposes of this subsection, shall mean land left in its natural state, gardens, and other open land suitably landscaped in harmony with the terrain of the site and its other features. Open Land shall not be used for parking or roadways but may include paths or walkways. Insofar as permitted thereunder and subject to the approval of the Planning Board, Open Land may be used for non–commercial outdoor recreational purposes, including playgrounds, tennis courts, basketball courts and swimming pools, but no more than 20% of the Open Land may be used for such purposes unless the Open Land is owned by the Town of Milton or open to public use. Open Land may be used for necessary underground utility services. Open Land may be used for underground septic systems and the underground structures and pipes necessary for such systems, each of which may serve one or more dwellings as approved by the Board of Health. The Planning Board may permit Open Land to be utilized for the courting or temporary retention of storm drainage.
No structure shall be erected or maintained on Open Land except as may be reasonably necessary for and incidental to the use of Open Land, such as lampposts, benches, small sheds for tools or sports equipment, bath houses, and fences. The number, use, characteristics, and location of structures shall be subject to the approval of the Planning Board.

9. At least 35% of the total land area of the Cluster Development, exclusive of the land set aside for streets, shall be Open Land, and at least 35% of the non-wetland area of the Cluster Development, exclusive of the land set aside for streets, shall be Open Land. Land which is subject to rights or easements inconsistent with the use of Open Land shall not be counted as Open Land in determining these percentages.

10. Open Land in a Cluster Development shall be contained in one or more parcels of such size, shape and location so that the purposes of this subsection are met. Narrow strips of land, which are not necessary for a high-quality site design, shall not be a part of the Open Land. Open Land shall be situated so that each Buildable Lot is adjacent to Open Land or has convenient access to Open Land.

11. The special permit for a Cluster Development shall make reasonable provision for daytime foot passage by the public on some or all paths or walkways on Open Land. The use of recreational facilities, not owned by the Town, may be restricted to residents and their guests.

12. Open Land in a Cluster Development may be owned (a) by the Town of Milton for park or open space use with the Town’s consent, (b) by a non-profit organization, the principal purpose of which is the conservation of open space and which agrees by suitable guarantees to maintain the Open Land for such purpose in perpetuity and which in the opinion of the Planning Board, has sufficient resources to provide adequate maintenance of the Open Land and/or (c) by a corporation or trust as described in Paragraph 13 of this subsection. In any case where the Open Land is not conveyed to the Town of Milton, a perpetual conservation restriction pursuant to G.L.c184SS.31–33, shall be granted to the Town and recorded with the Norfolk County Registry of Deeds providing that such Open Land shall be kept in an open or natural state and not built for commercial or residential use or developed for accessory uses such as parking or roadway.

13. Any corporation or trust, which owns Open Land in a Cluster Development, shall be owned by the owners of the Buildable Lots. Each such owner’s interest in the corporation or trust shall be subordinate to the conservation restriction granted to the Town and shall pass with conveyance of his or her Buildable Lot. Such corporation or trust shall be responsible for the maintenance of the Open Land. The deed of the Open Land to such corporation or trust shall restrict the use of the Open Land to all or some of the uses set forth in this subsection. Each deed to a Buildable Lot shall obligate the owner and his successors in title to pay a pro rata share of the expenses of the corporation or trust and any successor in title in maintaining the Open Land. The corporation or trust by unamendable provision in this charter or trust indenture (a) shall be obligated to maintain the Open Land, (b) shall be prohibited from mortgaging or pledging the Open Land, and (c) shall be prohibited from conveying or assigning the Open Land, except to an entity described in Paragraph 12 of this subsection, with the consent of the Planning Board. In the event that such corporation or trust shall be legally terminated, another corporation or trust constituted pursuant to the requirements of this paragraph subject to the rights and obligations provided herein shall take title to the Open Land.

14. (a) Every application for a special permit for Cluster Development shall include a preliminary plan which shows the number of lots which could be contained in a conventional subdivision meeting the requirements of Paragraph 4. The preliminary plan shall be accompanied by such additional information as the Planning Board deems reasonably necessary for its determination of the number of lots which would likely be possible in a conventional subdivision.

(b) Every application for a special permit for Cluster Development shall include: a Site Plan meeting the requirements of Paragraph 15; copies of all proposed deeds, documents and other instruments required by this Subsection; and such other information deemed reasonably necessary by the Planning Board.

15. A. The Site Plan for a Cluster Development may be contained in, one or more plans prepared in a form suitable for recording by a Registered Professional Engineer or a Registered Land Surveyor, and in accompanying text and material. Applicants are encouraged to secure the assistance of a Registered Architect or Landscape Architect in preparation of the Site Plan. A Site Plan, approved by the Planning Board, is a prerequisite of a special permit for a Cluster Development granted under this subsection, and construction of the Cluster Development shall be in accordance with the approved site Plan. The Site Plan
shall show:

(a) The existing topography of the land showing existing and proposed two–foot contours.
(b) A mapping of all wetlands, a description of these wetlands, and any proposed alteration of wetlands.
(c) Major site features such as large trees, wooded areas, rock–ridges and outcroppings, water bodies, meadows, stone walls, and buildings, a description of these features, and any proposed removal or changes in these features.
(d) The siting, grading, and landscape plan for all proposed streets, Buildable Lots, Open Land, parking areas, paths, walkways, driveways, tennis courts, basketball courts, ball fields, swimming pools, any other athletic facility, playgrounds, gardens and fences.
(e) A written description of the landscape characteristics of the site and its contiguous neighborhood and of the effects of the Cluster Development on such characteristics, including the passage of water through the site and to and from contiguous property.
(f) A written description of the site’s current uses, such as watershed, wildlife habitat, woodland, or meadowland and of the effect of the Cluster Development on such uses.
(g) A statement of all significant impacts, which the Cluster Development is likely to cause, and a description of any measures proposed to deal with these impacts.
(h) The design of all structures, proposed for the Open Land or for common parking areas, and the design of the lighting for streets, walkways, paths and common parking areas.

B. The Site Plan shall be prepared in conformity with the purpose and specific requirements of this subsection including the following design standards:
(a) The existing terrain, whether part of the Open Land or a Buildable Lot, shall be preserved insofar as reasonably possible, and earth moving shall be minimized except as may be required for a site design meeting the purpose and requirements of this subsection.
(b) Existing trees and significant natural features whether on the Open Land or a Buildable Lot, shall be preserved and integrated into the landscape design plan insofar as reasonably possible and appropriate to a site design meeting the purpose and requirements of this subsection.
(c) Street layouts shall take account of the existing terrain and landscape features, and there shall be no extreme or ill designed cuts or fills. The width, construction and lighting of streets shall be appropriate for their intended use.
(d) Preservation of views of the Open Land from existing streets and creation of views of the Open Land from new streets in the Cluster Development shall be among the objectives of overall site design.
(e) The Buildable Lots shall be arranged and oriented to be compatible with the terrain and features of surrounding land and shall be sited so that the arrangement of the Buildable Lots fronting a street creates a landscape setting in context with the street and the surrounding land.
(f) The Buildable Lots shall not be located in such a manner that densities of dwelling units are increased in the immediate vicinity of any existing dwelling beyond the increase which would be caused by a conventional subdivision.
(g) Individually and commonly owned parking areas shall be designed with careful regard to topography, landscaping, ease of access and lighting and shall be developed as an integral part of overall site design.
(h) There shall be an adequate, safe and convenient arrangement of walkways, paths, driveways and parking areas and suitable lighting. Varied construction materials, such as brick or stone, shall be used when feasible and appropriate to site design.
(i) Suitable trees, shrubs and other plant material, used for screening or landscaping, shall be of a size and number sufficient for their purpose. The Site Plan shall specify the approximate location and approximate dimensions of all dwellings on the Buildable Lots in conformity with the following design standards:
(j) The dwellings on the Buildable Lots shall be conveniently accessible from the street without extreme or ill–designed cuts or fills and without removal of trees or other natural features beyond what is necessary to a site design meeting the purpose and requirements of this subsection.
(k) The dwellings on adjacent Buildable Lots shall be located with respect to each other so as to promote visual and audible privacy.
(l) The siting of a dwelling on a Buildable Lot shall take into account traditional neighborhood patterns for relationships of dwellings, yards, and common space.
(m) The size of the dwelling on a Buildable Lot shall be commensurate with and appropriate to the size of the lot.
The Site Plan need not include architectural plans for dwellings, but, when prepared, such plans should make the appearance of each dwelling on its sides and rear at least equal in amenity and design to the appearance of the dwelling on its front.

16. Every application for a special permit for a Cluster Development under this Subsection shall be referred to the Conservation Commission and Board of Health. The Conservation Commission and Board of Health shall act upon the referral in the same manner as upon an application for subdivision approval under the Subdivision Control Law.

17. Every application for a special permit for a Cluster Development shall be filed with the Town Clerk and five copies of the application (including the date and time of filing certified by the Town Clerk) shall be filed forthwith with the Planning Board. The Planning Board shall forthwith transmit a copy of the application to the Conservation Commission and a copy of the application to the Board of Health and shall specify the date of public hearing. After due publication notice, the Planning Board shall hold a public hearing within 65 days of the filing of the application or within such further time as may be permitted by G.L.c40AS9 (or successor statutory provision) or within such further time specified by written agreement between the applicant and the Planning Board filed with the Town Clerk. The written decision of the Planning Board shall be made within 90 days from the date of public hearing or within such further time as may be permitted by G.L.c.40AS9 (or successor statutory provision) or within such further time specified by written agreement between the applicant and the Planning Board filed with the Town Clerk. An applicant may require compliance with the timelines set out herein, but deviation from such timelines shall not be cause for constructive approval of the application.

18. The Planning Board shall grant a special permit for Cluster Development pursuant to the authority of and subject to the conditions in Section IX.C if it finds that the proposed Cluster Development meets the requirements set out in this Subsection, provided that the Planning Board may permit modification of the requirements if it finds that such modifications are needed to enable the application to go forward and if it finds that modifications are reasonable, compliant with the law, consistent with the purpose of this Subsection and without any adverse or undesirable impacts. In granting a special permit for Cluster Development, the Planning Board shall impose any reasonable restrictions or requirements requested by the Conservation Commission or Board of Health and such additional conditions or restrictions which it may deem reasonably necessary to accomplish the purpose or satisfy the requirements of this Subsection.

19. After a special permit for a Cluster Development has been granted, the development may be altered or amended only upon an application for such alteration or amendment complying with the pertinent requirements of this subsection and after notice and a public hearing and a finding by the Planning Board that the alteration or amendment (a) meets the requirements and purpose of this subsection, (b) is financially practical and in reasonable probability will be completed, and (c) is desirable or reasonably necessary for the Cluster Development. In permitting an alteration or amendment, the Planning Board may impose such conditions or restrictions which it finds are reasonably necessary to accomplish the purpose or satisfy the requirements of this subsection.

20. In the event no substantial use of a special permit granted under this subsection is made and no substantial construction has commenced within 2 years of the Planning Board’s decision (excluding any time involved in judicial review of the decision), the special permit shall expire, except for good cause. The Planning Board may set reasonable time limits for completion of parts or of the whole of the development and may determine the order of construction.

21. The amendments to Subsection J approved by Town Meeting in May, 2014 shall not apply to cluster development of a parcel of land which is subject to a purchase and sale agreement dated before July 1, 2013 if that agreement provides for cluster development of the land pursuant to Subsection J; with respect to cluster development of such a parcel of land subject to such an agreement, the provisions of Subsection J without the May, 2014 amendments shall apply, provided that the purchaser under the agreement may elect to be subject to Subsection J as amended. Such an election shall be made in writing in the application for a special permit and shall be irrevocable. In the event of such an election, after consultation with the Historical Commission, the Planning Board may authorize the rehabilitation and/or expansion of an existing historic building or buildings for its or their conversion into 2 units of housing eligible for inclusion on the SHI in satisfaction or partial satisfaction of the requirement for SHI-eligible housing in Paragraph 6. These housing units shall be located on a parcel of land of not less than 20,000 square feet adjacent to but not part of the cluster.
development with access to a street as may be deemed adequate by the Planning Board.”

Nothing herein shall affect, limit or expand the authority or responsibility of the Conservation Commission.

VOICE VOTE

The moderator declared a 2/3rds vote.

A true copy, Attest:

Susan M. Galvin
Town Clerk