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PUBLIC HEARING

FAIRMOUNT PROPERTIES PROJECT

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HELD AT: Hamilton Central School
Hamilton, New York
July 30, 2013
Start time: 7:10 p.m.

PUBLIC HEARING on FAIRMOUNT PROPERTIES PROJECT

APPEARANCES:

STOKES & YOUNGS, PLLC
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BY: JAMES STOKES, ESQ.

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42 Albany Street
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BY: PAUL J. CURTIN, JR., ESQ.

MORGAN LARSON, Chairman of Planning Board
BEN EBERHARDT, Member of Planning Board
JERRY FULLER, Member of Planning Board
JULIE DUDRICK, Member of Planning Board
KRISTIAN NEWMAN, Member of Planning Board

RANDY RUTTENBERG, Fairmount Properties
NORMAN ELBIN, Fairmount Properties
RUCK MYERS, Myers and Associates of Canastota

Jessica M. Rightmier,
Court Reporter.

1 MR. MORGAN: The only agenda we have
2 tonight is Fairmount Properties. So we will start
3 with Mr. Stokes. He is going to make a little
4 announcement like he did last time.

5 MR. STOKES: I know some of you have been
6 following this process, really, from the beginning
7 and many of you here tonight, it's probably your
8 first night here, so what I thought I'd do is give
9 a little background of the application of how we
10 got here and why we are here tonight. Several
11 months ago Fairmount Properties came to the
12 Planning Board on, essentially, an informal basis,
13 on a concept plans for the property presently
14 occupied by the former Wayne's Market. There was
15 at least two months that they were there, maybe
16 three, I'm not exactly sure, and talked
17 conceptually about the project. About a month ago,
18 in the beginning of July, Fairmount, which is the
19 applicant, formalized the application and submitted
20 an application for a Special Use Permit to the
21 Planning Board, along with site planning and
22 drawing and some other associated documents that
23 constitutes the application. They are applying,
24 specifically, for a boarding house, which in its
25 collection of residence under the Village of

1 Hamilton's Zoning Code that are not either a family
2 or a functional family unit. In this case they
3 have been very clear from the beginning that this
4 will be entirely for student housing and shortly
5 after that they did submit an application for a ZBA
6 on a question of whether there was sufficient lot
7 area under the zoning code. The ZBA did have one
8 meeting and then the applicant withdrew that
9 application. Presently the only application
10 pending is the one before the Planning Board, and
11 the reason it's before the Planning Board, is
12 because the property is located in a B2 Zoning
13 District -- a Business 2 Zoning District in which
14 certain uses, including boardinghouses, are allowed
15 only by special permit issued by the Planning
16 Board. That special permit is issued only when the
17 Planning Board determines that the standards in the
18 zoning are met, which I'm not going to go through
19 those all right now. Essentially, they are
20 standards that are designed to ensure a review
21 process whereby use; that is, a special permit use
22 once approved and built doesn't become a burden on
23 the neighborhood or the community, it's not overly
24 disruptive or the other terms that are used in the
25 code. This is a process -- part of the process

1 tonight is to get public comment to help the Board
2 in their deliberations both under the New York
3 State Equality Review Act, which -- under which the
4 Board has to determine whether there are any
5 significant adverse environmental impacts and, two,
6 whether the application satisfies all of the
7 conditions of the Zoning Board ordinance, including
8 those applicable under the Special Permit Uses.

9 Now, under the code, the Planning Board
10 is not required to have a public hearing. Having
11 said that, tonight's meeting will be similar to
12 last week's Planning Board meeting, meaning those
13 that wish to speak will be given an opportunity to
14 speak and address the Planning Board. The Board
15 does ask that, if you have spoken before and the
16 Board has your comments and you were in attendance
17 last week, please give those who have not had a
18 chance to speak or ask questions the opportunity to
19 do that. If there's time left at the end, the
20 chairman may allow additional comments from those
21 who have already spoken, but even if you have
22 already spoken, the Board does ask that you limit
23 your questions to something new as we did spend
24 three hours last week listening to public comment
25 as well. Because some of you are not familiar with

1 the application and the application may have some
2 modifications to it, we asked the applicant,
3 Fairmount Properties, to give a presentation to
4 everyone tonight of what their project consists of
5 and what they are proposing for the site and for
6 the use and occupancy of the premises. We will
7 begin with that, and once that's completed, then
8 the chairman will start taking comments from the
9 public. When the chairman recognizes you, and you
10 must be recognized by the chairman before you
11 speak, please come to the podium and state your
12 name, your address, whether a resident, whether a
13 landlord, what your interest is and address your
14 comments directly to the Board, please. We do not
15 want any back and forth between members of the
16 audience, and the chairman will direct the
17 discussion. This is particularly important
18 tonight, because we do have a stenographer and it's
19 important that she be able to hear the speakers as
20 they speak and there not be a lot of background
21 noise, so she can't hear. We ask that you respect
22 that, and I'm sure you all will; And having said
23 that, I will turn it over to the applicant to begin
24 the presentation. Thank you.

25 MR. CURTIN: Thank you, Mr. Stokes.

1 Members of the Board, Ladies and Gentlemen, my name
2 is Paul Curtin and I am an attorney with my office
3 located at 42 Albany Street, in Cazenovia, and I've
4 been retained to represent the interest of
5 Fairmount Properties, the applicant before you this
6 evening. In the review of the presentation of the
7 application for the property located at 11-13 Eaton
8 Street, in the Village of Hamilton, as Mr. Stokes
9 has noted. And I will be somewhat redundant, Jim,
10 if you excuse me. The property is presently in
11 Zone B2 and under the acceptable uses that are
12 allowed within that zoning district, is, in fact, a
13 boarding house. Under the bulk regulations of the
14 Village, the site plan that we have before you this
15 evening conforms and complies in all respects with
16 the bulk regs and doesn't require any variances
17 whatsoever.

18 The site is approximately 1.044 acres,
19 and as many of you are familiar with it, it is
20 presently occupied by the former Wayne's
21 Supermarket. The entire site -- I think I can
22 clearly state that the entire site is developed and
23 is impervious. The boarding house is for
24 off-campus student housing in connection with
25 Colgate University. We are proposing three floors

1 of development in one single building, which would
2 be located approximately to the west side of Eaton
3 Street. We have pulled the building forward so the
4 parking is to the side and rear of the building,
5 and that would be consistent with the Village
6 streetscape as it presently consists in the
7 historic downtown. We have incorporated a variety
8 of features -- architectural features so that the
9 building will blend with existing structures;
10 although those of you who are familiar with this,
11 and everyone is familiar with this area, it will
12 not blend with the medical office building, the
13 architecture of that. I'm sorry that we just can't
14 make any efforts to do that. And it will not blend
15 with the Byrne Dairy, but I don't think that anyone
16 would want us to do it. As you look at it -- as
17 you look at the elevation and the materials we are
18 wanting to incorporate, it does blend with the
19 streetscape -- the existing streetscape in the
20 Village of Hamilton, and I think it's a handsome
21 building.

22 As far as occupancy is concerned, we
23 are proposing twelve 4 bedroom units, twelve 2
24 bedroom units and 1 single unit. The residential
25 components will be located on the first, second and

1 third floors of the building, and the first floor
2 will have some commercial retail not to exceed
3 1,000 square feet. So you see, basically, a retail
4 commercial elevation -- commercial elevation in the
5 front that we are going to develop for purposes of
6 adjunct services for the general community, and
7 that would be consistent with many of the
8 streetscapes and many of the buildings that are
9 currently located in the downtown area. Total beds
10 would be 73 and the total parking spaces serving
11 those beds would be 73 as well; they are all
12 located on site. To the south you will see a row
13 of parking just beyond the dash park, and I'll
14 point this out. This area, that is not owned by my
15 client and it will not be owned by my client, and
16 it's owned by the folks who own the medical office
17 building presently across the street. We are not
18 incorporating that into our plan, other than we
19 will develop it, we will stripe it, we will
20 maintain it and we will direct drainage from
21 that -- from that parking area, which will be used
22 exclusively by that medical office building onto
23 our property for storage and subsequent discharge.
24 That is not part of our application, but we are
25 showing it because the only thing we are sharing

1 with the medical office building is, in fact, a
2 common driveway to eliminate a multitude of curb
3 cuts. We won't have a common driveway, but we will
4 have an agreement with them that allows common
5 access and common maintenance, which will be our
6 responsibility.

7 The building elements -- Norm Elbin,
8 who is with us this evening, who can point them out
9 to you on the elevation plan shown. The building
10 elements are comprised of a variety of different
11 types of materials, including brick, EIFAS,
12 limestone and pre-cast concrete. They are -- the
13 design is for the long-term, it's not a short-term
14 building. It's not a building that has a 40 year
15 shelf life. We are using quality materials going
16 in and we are using elevations that are, again,
17 consistent with the history of the area and the
18 existing structures around us.

19 Drainage will be discussed by the
20 project, engineer, Rick Myers, from Myers and
21 Associates of Canastota but, essentially, as he
22 will note, and I'm not trying to steal Rick's
23 thunder, but we are required under current
24 regulations, both the DEC and SWIFT Regulations,
25 which have been prompted by the DEC, to maintain

1 all water on our site and discharge, and no more
2 than it normally would under normal situations. We
3 have designed, in essence, an underground storage
4 facility to accommodate stormwater that will be
5 accumulated on site and will discharge slowly into
6 the public storm sewer system. Presently, the site
7 doesn't have that, so if you're aware of water
8 pooling on the site, it's there for a reason; not
9 only because the slope on the elevation, but
10 because it doesn't have an adequate storm sewer at
11 this present time. None of the water that's
12 collected on site will be discharged onto
13 contiguous or related properties.

14 At the time, as I said, the site is
15 impervious, it's fully developed, but as a
16 pre-construction condition. After construction we
17 will have pervious areas that the site doesn't
18 presently enjoy and will provide some additional
19 landscaping that isn't shown.

20 Norm, if you can point out the green
21 areas that we're going to establish and maintain,
22 that might be helpful for those gathered here. It
23 will be along the perimeter of the sites, inclusive
24 of the medical office, as part of our development.
25 For them we will be adding green space and some

1 trees and for buffering purposes, and for the area
2 immediately to the north of the building, that will
3 be pervious and that will be, potentially, a green
4 area as well. We are adding green areas to the
5 front with appropriate green scape trees. That
6 presently doesn't presently exist and that's
7 something that we're going to be adding. We
8 prepared and submitted an application, as
9 Mr. Stokes has noted, for site plan review and
10 approval. We also requested a Special Use Permit,
11 which would allow this use, which is allowed to be
12 used under the code. It would allow the boarding
13 house use and that use can be conditioned. That
14 use can be conditioned -- reasonably conditioned by
15 the Planning Board as it deems fit.

16 We have modified the plan, because our
17 presentation last week included parking on the
18 north side of the building, that was shown
19 previously on the Curtis Lumber site, and we were
20 in negotiations with Curtis Lumber at that time and
21 thought we had a tacit agreement for parking that
22 would allow us to use their space for a defined
23 period of time. That's no longer the case and
24 we're not going to advance that notion one bit.
25 That is not shown on the plan -- will not be shown

1 on the plan and it's not part of our plan. Total
2 development proposed is going to be accommodated
3 with all on-site parking, as required by code.
4 There is no off-site parking, at all.

5 We have induced our density proportion.
6 We have also amended our long form EAF Form,
7 Environmental Assessment Form, which is required to
8 be completed by the applicant and a determination
9 under SEQR, the State Environmental Quality Review
10 Act, has to be made by the Planning Board in its
11 deliberations of this application. We have
12 supplemented the submission with a detailed traffic
13 report that was prepared by a Mr. James Napoleon, a
14 traffic engineer who's very familiar with this area
15 and was formally with the State DOT. He has
16 addressed concerns and questions -- more questions
17 than not relative to the level of service, the LOS,
18 of various intersections around this property and
19 in and around this property and has determined that
20 there will not be any denigration or reduction in
21 the level of services. By that, I'm talking about
22 more than the three or four seconds waiting to make
23 a turn. He has compared this property as it's
24 proposed, also to the property as it was as a
25 supermarket and looking at peak time use and

1 looking at when it was operational and what the
2 impact of that traffic that was generated on such
3 surrounding intersections and he comes to the
4 conclusion that this Project will not adversely affect
5 on the existing traffic infrastructure or
6 roadways. That has been submitted as a supplement
7 to our EAF.

8 With that having been said, I'd like to
9 defer to Mr. Myers to go through the site plan and
10 discuss the drainage and address any questions that
11 may have been raised last week, but also address
12 them so those who were not with us last Wednesday
13 have the benefit of his remarks now.

14 RICK MYERS: I was engaged by
15 Fairmount to come up with a site drainage plan for
16 this particular property. We have been through
17 several generations of plans, and the current one
18 you're looking at now is the one we're going to try
19 and utilize and prepare for the final plan. The
20 concept being, there's no place on site for
21 above-ground storm management or detention as
22 you're familiar with. You usually see a detention
23 basin or a sediment basin. This site doesn't allow
24 for that, so what we are doing is putting a
25 subterranean storage on site, in that area, right

1 there, the low point on the site, and the entire
2 site is curved. All water on-site is directed to
3 the subterranean storage. This could be controlled
4 and discharged at Eaton Street to an existing pipe,
5 and the pre and post-construction will be the same
6 or less than it is now. That's our function.
7 There will also be a DEC permit involved, there
8 will be construction inspections, there will be a
9 speed permit, there will be a dual authorization
10 jurisdiction with the Village and the DEC for
11 inspections. There are weekly inspections with a
12 log on-site for stormwater management and erosion
13 control and stormwater quality and quantity
14 control. Do you have any questions? That's it.

15 MR. ELBIN: My name is Norm Elbin,
16 representing Fairmount Properties. I just wanted
17 to say a few words about the physical construction
18 about the building and site. As Mr. Curtin said,
19 the building is a brick building, all four sides
20 are brick with architectural detailing that's
21 similar to what you would find in the downtown
22 district. We will have a rubber TPO roof, that's a
23 white roof that's meant to reflect sunlight to help
24 with the energy efficiency of the building. The
25 windows will be likewise, insulated glass, slightly

1 tinted and the windows will be non-operable,
2 meaning they don't open. The reason for that is
3 for noise control, so the windows can't open and
4 loud music can't be played.

5 Regarding the site as Mr. Myers'
6 indicated, the entire perimeter of the site will be
7 concrete curved, the asphalt will all slope to the
8 storm sewer catch basins, so there's no water
9 that's falling on this site that will leave the
10 site onto adjacent properties, so all the drainage
11 will be directed into the stormwater management
12 system and leave via a pipe to the municipal storm
13 sewer. The perimeter of the site with the
14 residential properties will have a 6-foot high
15 solid wood fence. Code requires that buffer
16 against residential properties. Paving will be
17 asphalt and it will have concrete sidewalks out to
18 Eaton Street and accessible to all the parking
19 spots so that residents can walk safely from the
20 parking lot to the building.

21 MR. CURTIN: I think we made a
22 fair overview of the plan as amended --
23 plan before you this evening. We have, for
24 the benefit of those here this evening,
25 gone through the details of the plan of its

1 use, its size, the elevation, materials and
2 drainage. We have not touched on lighting
3 but, of course, this will be dark site
4 compliant, which is a mandatory requirement
5 of the Village code. So as you can see on
6 the front of the building and other
7 entrances, we have sconces that will,
8 basically, illuminate the front of the
9 building for safety purposes, for security
10 purposes but, also, not shed any light on
11 the continuous properties or to the public
12 right-of-way.

13 In all respects, this building is code
14 compliant and meets the mandates of local
15 ordinances. We have addressed SEQOR in whole,
16 having submitted a Long Form on this and we feel
17 that this application is complete at this time, as
18 amended with this modification to the plan. The
19 stormwater features that are shown on the previous
20 plan would remain, because that surface is not
21 changed and the calculations would be mandated in
22 the construction drawings. But, again, as
23 Mr. Myers pointed out, that is all going to be
24 subterranean and all below grade and we will be
25 handling the water that way, so the water will be

1 going into the ground naturally and any overflow
2 will be utilized stormwater abatement or stormwater
3 lines to take the existing Village infrastructure.

4 The other thing the Board should be
5 aware of is that Mr. Myers has spent a great deal
6 of time on this site, and one thing I think I can
7 speak for you is - we talked about this before - he
8 has done four samples in the parking lot to
9 determine the type of earth we're dealing with.
10 Not only does he have from a structural standpoint,
11 but from an engineering standpoint, but he wants to
12 make sure the stormwater site he's designing is
13 applicable in the ground, and what he found was,
14 the earth there is perfectly acceptable for
15 stormwater purposes for the system he has designed
16 to accommodate on this site. So with that having
17 been said, the existing grades will be changed not
18 only with how the property slopes down from Eaton
19 Street to the west, it will be changing this with a
20 little bit of cut and fill. But, again, all the
21 water will be going down the parking lot to the
22 stormwater systems that will accommodate it as may
23 be required, but for more significant events.

24 If there are any questions at this
25 point in time from the Board to the applicant or

1 the applicant's counsel or engineer, we will be
2 happy to accept those or later after public comment
3 has been received.

4 MR. STOKES: Discuss the management of
5 the property and the security aspects of it. Thank
6 you.

7 RANDY RUTTENBERG: Randy Ruttenberg of
8 Fairmount Properties. We're a 16 and a half year
9 old company of about 20 people based in Ohio and we
10 developed in excess of a billion 2 in real estate
11 projects throughout the country, most of which we
12 manage ourselves. This building will be privately
13 owned and privately managed. There will be an
14 on-site resident manager. I know there are
15 concerns over behavior. We will talk a little bit
16 tonight about some of the things that we have
17 discussed internally, and with Colgate, relative to
18 managing those potential issues.

19 MR. STOKES: Could you address those?

20 MR. RUTTENBERG: We are prepared to do
21 one or more of the following items: We currently
22 have one residential manager on site. We're open
23 to increasing that to two residential managers. We
24 have discussed, like we have done in other
25 projects, closest one being located in Rochester, a

1 much larger project than this, a satellite office
2 for both -- that would be shared potentially with
3 both campus police and the police department from
4 the Village. We have talked about the potential of
5 adding additional people in the building to help in
6 addition to the two residential managers.
7 Potentially some non-students, faculty, coaches,
8 et cetera, as a potential; and, again, these are
9 all items that are up for discussion; no
10 commitments have been made by Colgate. The last
11 thing that we have thought about - I don't think I
12 missed one - was to hire a monitor or a
13 security person, if you will, between the hours of
14 9:00 and 2:00 a.m. on Thursday, Friday and Saturday
15 to be in the parking area to help residents get
16 back into the building quietly. We understand that
17 there are significant concerns about students. We
18 heard students walking through the neighborhood,
19 being noisy, trash, et cetera, we feel as if - tell
20 me if I'm getting too far ahead of ourselves here -
21 this building, most of what we understand are
22 students leaving the downtown areas and walking
23 through the neighborhoods back to their homes, we
24 believe that the location of this building so close
25 to downtown will eliminate at least some of that

1 with at least 70 or so residents that will live in
2 this building. Norm has mentioned the windows
3 being non-operational, that does meet code. We
4 thought that was important and was one of the
5 changes -- there are several changes we made as we
6 have gone through the process, and one was having
7 some concern over noise within the building itself.
8 So like many buildings of this type throughout the
9 country, particularly near campuses, the windows
10 are non-operational. The other thing that was
11 mentioned was the windows would be tinted to help
12 alleviate some concerns from adjacent residents
13 regarding light coming out of those rooms. It
14 won't eliminate it completely, but it will provide
15 a better situation for light.

16 MR. LARSON: We would like to open the
17 meeting up to public comment.

18 BRIAN HUTZLEY: My name is Brian Hutzley
19 and I'm the Vice President of Finance at Colgate
20 University. I actually started in December, so I'm
21 fairly new. I have some public statements I want
22 to read on behalf of Colgate. And before I do
23 that, I just want to comment on Hamilton and
24 Colgate University. I might not have worked here
25 long or lived here for long in the community; I

1 lived in Lebanon and I just moved there about a
2 month and a half ago and I have had an opportunity
3 to live in New York for the last 20 years. For the
4 last 8 years, before my job at Colgate, I worked
5 for the State University of New York and I was in
6 higher education and my job was the CFO of the SUNY
7 system, so I got to see a lot of different things
8 that were happening out in college towns, and so in
9 Colgate and Hamilton, we have a college town and
10 one of the things -- maybe one of the most
11 important things attracted me to this job was that
12 my daughter went off to college, I could have done
13 a lot of things, and I took this job in Hamilton,
14 New York, at Colgate University, because I saw
15 something very special, and what I saw that was
16 very special was the relationship between the
17 community and Colgate University, and I have seen a
18 lot of different situations and none as great as we
19 have right now between the community and Colgate
20 University. And one of the things I thought was
21 unique was -- at the second interview was the
22 mayor, the town superintendent, the town
23 supervisor, the school superintendent, the director
24 of the nursery school and the CO of the hospital, a
25 lot of great people, and by the end of the day I

1 was very attracted to the job and I was very glad I
2 got the job. And part of my job with working with
3 Joanne is the community relationship and these
4 investments that Colgate has in the community. The
5 buildings have to be owned, the businesses have to
6 be ran and certainly the college, itself, from a
7 financial perspective. And I just want to say,
8 from my own personal perspective, that Colgate
9 University does not want that to change -- and what
10 we are trying to do on behalf of the citizens and
11 the community, and these are things that we heard
12 from citizens, maybe not the folks in the room, but
13 I do have this statement I want to read on behalf
14 of Colgate University, but I also wanted to say
15 personally that I think this is a great community,
16 it's a great university and I'm glad to be here.

17 Colgate University's statement to the
18 Village Planning Board regarding Fairmount
19 Properties, July 30, 2014. Colgate wishes to
20 submit for the record this statement in strong
21 support of the Fairmount Properties project at
22 11-13 Eaton Street. With few exceptions, villages
23 and towns in Central New York are in dire economic
24 straits. College towns, such as Hamilton, are at
25 exceptional risk, unless they can present an

1 attractive commercial and residential environment
2 for prospective families, faculty, staff and
3 alumni. Knowing this full well, Colgate's Hamilton
4 Initiative has invested heavily and strategically
5 over the past decade. Projects totaling nearly \$30
6 million - from the Colgate Inn and the Sperry
7 Building, to the Hamilton Movie Theater, the Palace
8 Theater, the Chenango Nursery School, several shops
9 and restaurants, and the future \$21 million Center
10 for the Arts and Culture - distinguish Hamilton as
11 a highly attractive destination that is becoming
12 economically viable for investors.

13 Hamilton is a wonderful community now,
14 but must attract outside investors in order to
15 thrive in the long run. Fairmount Properties is
16 eager to partner responsibly with Hamilton and
17 Colgate to enhance our community. Having
18 successfully supported many college towns,
19 Fairmount is a strong partner for Colgate and
20 Hamilton. The company has enough faith in Hamilton
21 to purchase the property at the former Wayne's
22 Market and propose construction of a high-end
23 housing and retail property and also to explore
24 future projects that will help expand our Village's
25 dining, retail and housing options. Fairmount's

1 investments will grow Hamilton's tax base, which
2 will help our schools and hospital and attract even
3 more of the amenities our residents have said that
4 they need and want. Studies also show that the
5 closer residents live to the village core, the more
6 frequently they support local restaurants and
7 retail establishments. If we lose Fairmount as a
8 partner, we significantly risk discouraging other
9 entities from investing in our community.

10 We have listened to many of the comments
11 from members of the community and are discussing
12 with Fairmount some of the ways to address the
13 concerns. Together we are exploring options to
14 increase the number of residential managers,
15 provide additional security for residents and
16 neighbors and include a number of professionals
17 residing with the students in the building. We
18 believe that congregating students with adult
19 professionals in a brand new residence will
20 positively influence their behavior and inspire
21 them to respect their surroundings. In addition,
22 Fairmount is fully dedicated to maintaining their
23 properties to the highest standards.

24 We have great confidence that Fairmount
25 Properties has Hamilton's best interests in mind

1 today and well into the future. We are proud
2 partners on this project and applaud their future
3 interests in supporting Hamilton. They and we care
4 deeply about this project and are committed to its
5 success. Thank you.

6 MARY JANE WALSH: I'm Mary Jane Walsh and
7 I live at 32 West Kendrick, which I own, and not
8 even the bank. I have questions. I don't have
9 comments for the developer. I will ask them and
10 then sit down. The first is driven by the fact
11 that I don't know what defines a unit. Do the
12 units have bathrooms and kitchens, and if so, does
13 the recently renovated sewage treatment plan have
14 the capacity to add the -- whatever sewage is going
15 to be output from those units. The second is, if
16 the Planning Board and the Village Board decide to
17 go ahead and issue a Special Use Permit, having
18 lived in -- well, still living in a student
19 neighborhood, I know that if the police are called
20 to the property because noise problems multiple
21 times or other problems, and the Special Use Permit
22 is up for review, what happens if the Special Use
23 Permit for the special use is withdrawn for the
24 future.

25 NORMAN VAN WETTBERG: My name is

1 Norman Van Wettberg and I'm a Village property
2 owner and I'm an agent for several other property
3 owners who are landlords and I'm representing
4 Jay Wipple, a Montgomery Street resident and
5 property owner. If I may, I would like to turn
6 this picture around. Fairmount Properties proposed
7 facility is gorgeous, but that's irrelevant. The
8 issue before this Board is whether or not this
9 facility meets the definitions and the rules of the
10 Village code. I'd like to apologize to the Village
11 Board for not having gotten a copy of the letter to
12 two of the members, and I will give the formal copy
13 that I signed to the Board of this letter. I would
14 also like to comment that the letter has been
15 revised because I'm constantly aiming at a moving
16 target. Every time we have a meeting, the proposal
17 from the applicant changes, and so those of us who
18 are opposed to it and submitting things have to
19 change things on the fly. I have tried to change
20 that letter to meet the new reality, fully
21 realizing at the next meeting we will have a
22 different reality. I would also like to state that
23 I'm revising this letter as a revision of my 7/28
24 letter that I delivered to every member of the
25 Planning Board and I had to revise it because my

1 updated code notes or the code changes that I was
2 giving last Friday in the Village Office,
3 unfortunately, one of the pages was missing in that
4 packet and I didn't find that out until last night.
5 In any case, let me go on from there.

6 At your last meeting, on July 24, the
7 attorney representing Fairmount Properties stated
8 that he and the Village attorney had agreed,
9 decided - I'm not exactly sure what the proper
10 wording of that is - that Fairmount Properties did
11 not need an area variance, because they had changed
12 their application for a Special Use Permit from a
13 multi-family dwelling to a boarding house, rooming
14 house. Both of the attorneys stated that a rooming
15 house is considered other in Appendix A-Schedule II
16 of the Bulk Zoning Regulations and only needs
17 20,000 square feet of lot area. Neither the
18 applicant's attorney nor the Village attorney has
19 the authority in the Village code to make this
20 determination. It rests with the enforcement
21 official and/or the Planning Board. Neither the
22 code enforcement nor the Planning Board ever made
23 this determination at the last meeting. I would
24 ask that the Code Enforcement Official and/or the
25 Planning Board consider the following points before

1 determining whether Fairmount Properties needs a
2 variance.

3 First, the documents and plans Fairmount
4 Properties has submitted to the Code Enforcement
5 Officer and the Planning Board do not provide the
6 information necessary to determine whether this
7 proposed facility is a rooming house, boarding
8 house. The definition of a rooming house states
9 that it is a "Dwelling unit used for temporary or
10 transient occupancy purposes not constituting a
11 family or functional family unit who pays expenses
12 by the room or based on a share of total expenses
13 of the dwelling unit." There is no documentation
14 as to why they are dwelling and/or house units
15 rather than family units. There is no copy of a
16 lease to show each bedroom tenant pays by the room,
17 there is no copy of a lease to show that each
18 bedroom tenant has a separate lease. A simple
19 statement by the applicant that this is a rooming
20 house is not sufficient, especially when the
21 applicant has made misleading statements at past
22 meetings; such as, that the applicant has a lease
23 or a promise of a lease from Curtis Lumber, which
24 we discovered tonight isn't true. Without more
25 documentation it is impossible to confirm that this

1 facility is a rooming house rather than what the
2 Code calls dwelling, multi-family.

3 Second, the definition of family in the
4 Village code states that a family is "One or two
5 persons residing in the same dwelling unit."
6 Therefore, any dwelling unit with one or two people
7 residing in it is considered a family. The
8 applicant has stated on numerous occasions - well,
9 actually, just tonight, because this changes - that
10 there will be 73 Colgate students in this facility
11 with 12 -- I believe 4 bedroom units, twelve 2
12 bedroom units and one 1 bedroom unit, if I caught
13 him correctly on the first statement. I can only
14 assume that there will be one student in each
15 bedroom, thus, this proposed facility has 13
16 "Family dwelling units." By the Village code
17 definition of a rooming house these 13 units cannot
18 be part of a rooming house, because they are by
19 definition, family units, which are specifically
20 excluded in the rooming house category. The
21 definition of dwelling, multi-family in the Village
22 code is "A building or portion thereof containing
23 three or more dwelling units." That means that
24 even if the 4 bedroom units are considered a
25 rooming house, this facility is also a dwelling,

1 multi-family.

2 Third, the definition of a rooming house
3 describes the rooming house as a "Dwelling unit."
4 Therefore, the rooming house described in the
5 applicant's application has either 73 or 25 or 13
6 dwelling units, depending on whether you count all
7 of the bedrooms as individual units or all of the
8 individual units as dwelling units or all of the
9 rooming house bedrooms as 1 dwelling units, plus
10 the 12 family units. Whichever way you count the
11 dwelling units, there are more than 3, making this
12 facility a dwelling/multi-family, according to the
13 Village code.

14 The facility proposed by Fairmount
15 Properties, as defined by the definitions in the
16 Village Zoning Law, is a mixed use containing a
17 rooming house/boarding house, a 13 unit
18 dwelling/multi-family and an undefined commercial
19 space of less than 1,000 square feet, and this is
20 if the applicant can prove that the 4 bedroom units
21 meet the requirements of a rooming house. If the
22 applicant cannot prove that the 4 bedroom unit
23 meets the requirements of a rooming house, it is a
24 mixed use facility with a 25 unit
25 dwelling/multi-family and an undefined commercial

1 space. Appendix A-Schedule II: Bulk Zoning
2 Regulations requires 20,000 square foot of lot
3 area, plus 2,000 square feet of lot area, in excess
4 of 2 units for dwelling/multi-family. It also
5 requires 20,000 square feet for other uses.

6 This facility is required by the Village
7 Zoning Law to have a minimum lot area that depends
8 on the uses of the facility. If it is a mixed use
9 of rooming house, dwelling/multi-family and
10 commercial, the Code requires a minimum of 62,000
11 square feet of lot area, that's 20,000 square feet
12 of being a multi-family, plus 11 times 2,000 for
13 each of the units over 2 that are considered
14 dwelling/multi-family units; plus the 20,000 for
15 the other. So you got 20,000 plus 20,000 plus
16 20,000, which adds up, if my quick addition was
17 correct, 62,000 square feet. If you add 20,000 for
18 each of the two other uses, because there are two,
19 there's the rooming house and the commercial, you
20 would have 82,000 square feet needed. In either
21 case, the applicant's proposed lot is too small,
22 having only 45,477 square feet. If it is a mixed
23 use of dwelling/multi-family and commercial and we
24 throw out the rooming house, it still requires a
25 minimum of 86,000 square feet of lot area, 20,000

1 for the multi-family and then 23 times 2 plus 6,000
2 for each of the units over 2, plus 20,000 for other
3 for the commercial. In this case, the applicant's
4 proposed lot is also too small; therefore, the
5 applicant requires a variance from the Zoning Board
6 of Appeals before the Planning Board can consider a
7 request for a Special Use Permit.

8 The fourth thing on your letter I crossed
9 out, because the parking is no longer an issue, I
10 agree that at least as a rooming house, it's fine.

11 I request that either the Code
12 Enforcement Official or the Planning Board deny
13 Fairmount Properties request for a Special Use
14 Permit until a variance has been obtained.

15 Thank you for your serious consideration
16 for this request.

17 SUSAN MARTIN: Members of the Planning
18 Board and Attorney Stokes, thank you for this
19 opportunity to speak before you. My name is
20 Susan Martin and I'm a resident of Hamilton for
21 over 30 years, as well as a business owner, and
22 have owned a real estate business here for the past
23 30 years. I met Randy Ruttenberg approximately one
24 year ago, and as you know, Randy represents
25 Fairmount Properties, a national developer of

1 mixed-use projects in college and university towns,
2 much like Hamilton.

3 Randy had learned that Colgate and the
4 Village of Hamilton were interested in enhancing
5 the retail and residential choices within the
6 greater Hamilton community. Fairmount Properties
7 has the experience and financial capacity to make a
8 significant investment in our community. Over this
9 past year of meetings with the Village and the
10 University, a vision for downtown housing has been
11 created.

12 Since 1999 Fairmount has worked with
13 other college towns and constructed and developed
14 retail and residential projects, these include:
15 Kent State University, University of Toledo,
16 University of New Mexico, Case Western Reserve
17 University and most recently, University of
18 Rochester.

19 In February I had the opportunity to
20 visit some of Fairmount's projects in Cleveland,
21 Ohio. I don't know if anyone else has visited any
22 of these projects, but I certainly encourage you to
23 do so. One of these projects was in partnership
24 with Case Western Reserve University. The project
25 was a mixed-use retail and residential development.

1 I also visited three residential developments and
2 all were truly architecturally pleasing and of
3 quality construction with lovely landscaping. All
4 were assets to their community.

5 I think a Fairmount investment in
6 Hamilton could both stimulate economic activity
7 downtown and truly revitalize this area of Eaton
8 Street.

9 BILL STEELEY: I'd also like to thank
10 the Planning Board for giving us this opportunity.
11 My name is Bill Steeley and I'm the owner of
12 properties on Broad Street and Lebanon Street,
13 storefronts downstairs. I'm the owner of a
14 business in town, a restaurant, student housing
15 upstairs. It's my understanding - and correct me
16 if I'm wrong - that Fairmount is proposing to build
17 a new boarding house allowing them to avoid the
18 variance required for a multi-family dwelling, is
19 that correct?

20 MR. STOKES: Just give your statement.

21 BILL STEELEY: Because if this is in
22 fact true, if they did change their application
23 before the Board, this assumes that a boarding
24 house is a structure. I think it's implicit in the
25 code that a boarding house is not a structure at

1 all, but rather it's a designation or the intended
2 use of a structure, and I'd like to reference
3 Hamilton's Village code Article 2, Section 174-7
4 definitions and usage. According to the code, you
5 must change the designation of a multi-family
6 dwelling to become a boarding house, and this is
7 done by permit that's renewed annually. Much like
8 a store, you don't build a store, you build a
9 structure that adheres to the building code, such
10 as handicap accessibility, fire accessibility, the
11 store is a use; not the structure and the use can
12 change through various applications. Such as
13 become a restaurant or a boarding house. Now, the
14 definition of a dwelling unit in the Code, is a
15 building containing a kitchen, bathroom, dining
16 and sleeping and related facilities necessary
17 and/or incidental to human habitation and is
18 designed and intended as a self-contained household
19 unit for a single, individual or a family. A
20 multi-family dwelling contains three or more of
21 these units intended for a single, individual or a
22 family. A boarding house is a dwelling unit used
23 for temporary or transit use; in this case,
24 students. The designation has now changed from
25 what was intended. Only after the multi-family

1 dwelling structure has been built can you request
2 the change of use of these units, which were,
3 according to code, designed and intended for a
4 single individual or a family, to transit or
5 temporary occupants, which are students. By
6 definition, it's not possible to start life as a
7 boarding house. A dwelling unit starts as a
8 dwelling for a specific purpose. It only becomes a
9 boarding house after its use has changed for a
10 temporary or transit occupancy. You cannot go
11 straight from a dwelling unit to boarding house
12 without applying and getting approval for the
13 change of use and the approval would be predicated
14 from the code for a multi-family dwelling. If you
15 could call yourself a boarding house, and thereby
16 ignore the Boarding Code and make that a legal
17 standard, there would be nothing from preventing
18 anyone from putting up a structure of any size and
19 renting it to any number of students and calling it
20 a boarding house. A boarding house is a
21 designation which must be applied for every year.
22 Let's say you were denied your permit and lose your
23 designation, what would you become? You become a
24 multi-family dwelling, as you started. Fairmount
25 Properties has withdrawn their application for

1 variances and multi-family and instead attempted to
2 start the multi-family requirements by requesting a
3 special permit for a new boarding house. I believe
4 the reason there are no guidelines for a boarding
5 house in the code is, because they are clearly
6 stated for dwelling units. You don't find them for
7 boardinghouses, because a boarding house can only
8 be converted from a boarding house or a
9 multi-family dwelling.

10 Fairmount must build this property to
11 conform to the multi-family Code and only then does
12 Fairmount have the option to use the dwelling units
13 for the purpose other than which they were
14 intended. You can't build a structure and call it
15 a boarding house to get around the Village code?
16 Why would Code not have maximum bed count for a
17 boarding house? 30 bed maximum by State Standards
18 would, therefore, be the measure. Thank you.

19 AMY SCOTT: I'm Amy Scott and I live at
20 40 Montgomery Street, in Hamilton. I wanted to say
21 a few things in regard to Fairmount Properties,
22 about some information, and I urge the Board to
23 look at some of the materials that are available on
24 their website and in their brochure, and I did this
25 to try to learn more about some of the claims that

1 have been made about the experience they had in
2 managing buildings and working with universities.
3 And I want to say that I feel that Fairmount does
4 not have a proven track record in managing these
5 types of buildings for students as they claim they
6 do. They are -- I think, as a place, they are not
7 really able to give us hard evidence, based on
8 their prior experience, that they can prevent the
9 loitering, the noise and the lighting issues that
10 are associated with 73 -- now it's 73 students
11 living in a densely packed space.

12 Their online brochure and their website
13 have some interesting things that they yield. The
14 vast majority of their projects do not house
15 students, in terms of the projects that are listed
16 in their materials. Even though there may be a
17 university partner listed, that does not mean the
18 kind of project we're talking about is the same as
19 the kind of project we would have in a small
20 village - the Village of Hamilton - with nearby
21 residents' homes in the vicinity. Let me give you
22 some material I learned from their website. The
23 University of Rochester Residential Component says
24 that "It is geared towards University of Rochester
25 facility, medical staff residents and young

1 professionals." We're not talking about
2 undergraduate students. The residential part of
3 the Case Western Project, the College Town
4 University Circle says "Only specialty tenants," is
5 the language that's used. There's no indication
6 that that's a predominantly undergraduate student
7 population of the residents. The residential part
8 of the Kent State Campus Project says "It is for
9 young professionals;" that's what it's geared for.
10 There are some other projects listed, the Kent
11 State Regional Campus Project at Twinsburg
12 says -- it indicates there is no residential
13 component with that. Virginia Tech Project has no
14 residential component. There's an in-progress
15 project for the University of New Mexico that
16 doesn't list any resident portion of it. In the
17 research that I did, again, on the internet,
18 looking at the materials, I could only find two
19 completed projects with student tenants on their
20 website; these were Hiram College, that we already
21 heard about at a previous meeting, and we learned
22 that Hiram College wasn't in a Village, it was on
23 the campus and it was townhouses for students and
24 that it had a variety of -- it was already bought
25 out by the college, and it's had a variety of

1 problems with disruption and troubles. The other
2 with students was the University of Toledo, a very
3 large project with 85,000 feet of retail space,
4 quite different than our under 1,000 retail space
5 for the project and 150 students. But the project
6 was just completed two years ago; this isn't
7 something where we can say there's years of
8 experience in managing these buildings. I don't
9 think that can be used as evidence of a long track
10 record. We have Hiram College we got the
11 University of Toledo, neither of which -- the Hiram
12 College, we have seen the problems that we learned
13 about at the last meeting, and it's not under their
14 management anymore. The Toledo Project is very
15 different, it's not in a village like ours, it's a
16 big university, but it's also different in terms of
17 being -- it's also an issue of not being an older
18 project, it's fairly new. We don't have a long
19 track record. That one, also, not in the Village
20 or the Town of Toledo, directly with residents
21 around; it's a gateway on the campus or at the
22 gateway on the campus.

23 I just wanted to point out these things,
24 because we heard a lot of things about -- you can
25 see the colorful brochures and the nice pictures

1 and all of that and the university partnerships,
2 but I just don't see the long track record of
3 working with managing buildings with large numbers
4 of students housed in them. Thank you very much.

5 CHRIS HENKE: Good evening. My name is
6 Chris Henke and I'm a resident of Hamilton for the
7 last 14 years, homeowner for the last 12 years. I
8 also teach at Colgate, I'm a sociologist. I just
9 had a comment and, also, just a couple of questions
10 about the project. I can't guarantee they are all
11 especially appropriate for the Planning Board and
12 your considerations, but I'll put them out there.
13 First of all, the statement -- I actually think
14 it's very important for us to have some form of
15 development, or whatever you want to call it, in
16 the Village for -- especially young professionals,
17 young professional families, people who need a
18 place to rent over a short-term or medium-term. I
19 have talked to a lot of friends who have been in
20 that situation and have had difficulty finding a
21 place in the Village. And I don't mean any
22 disrespect to any current landlords and other
23 rental property owners, but my impression, which I
24 think is done by surveys they have done of the
25 faculty and staff and so forth at Colgate and other

1 places in the Village, and that's a problem. With
2 that said, I don't really understand the proposed
3 project and how that it is necessarily going to
4 lead to the solution to that problem. Why is it
5 that a student residence downtown is going to,
6 necessarily, lead to more desirable, attractive,
7 more affordable properties for those people? The
8 assumption and the theory is that I think some of
9 the -- somehow the existing landlords are going to
10 be able to convert their properties, apartments,
11 homes and stuff like that to be ones that will be
12 taken over by non-students, and it's not clear to
13 me that that's actually going to happen. With that
14 said then, I guess I have a couple questions, they
15 are both for Fairmount, but also for Colgate as
16 well, who I guess I, kind of, see as a co-developer
17 here. From what I understand, there's this
18 relationship between the proposed Project and
19 Colgate guaranteeing that students will be filling
20 up this new building, which I don't know. I'm not
21 sure if there's a precedent for that. I know
22 Colgate has a lot of influence on other businesses
23 and properties in Hamilton, but I am not sure I
24 remember a story where, basically, Colgate promised
25 to fund a private developer for a new project in

1 town like that. I guess my question is then, how
2 is this actually going to happen, that we're going
3 to have more attractive, affordable places for
4 families and young professionals who want to the
5 live in the Village? And second of all, I guess I
6 want to know more from Colgate about this deal and
7 why they found it appealing and more details about
8 who made the promise, what are the terms of the
9 promise and how long is the promise, and if Colgate
10 decides that, based on some review process, they
11 are going to change their policy over 5 years or 10
12 years and how does that change the business model
13 for that Project? Does that mean Fairmount won't
14 have the same commitment over this Project over
15 this long-term, because they don't have the
16 commitment from Colgate anymore? So what kind of
17 deal has been made here? Is it a handshake deal or
18 is it an actual contract? What are the terms of
19 the contract? I have some questions about that
20 that are really relevant towards the Project and
21 the impact on the Village over a long-term.

22 OTTO MULLER: My name is Otto Muller
23 and I live at 42 Montgomery Street, but for the
24 last 32 years I have been teaching at Alfred
25 University. We have an experience there that is

1 similar to what's being planned here, an
2 independent developer, put a three-story modern,
3 high end multi-family dwelling - I'm not sure what
4 the code says - with retail on the first floor,
5 about a dozen years ago. It is the highest
6 taxpayer in the Village, and that's sounds good
7 until I tell you that I had a chat with a mayor
8 yesterday planning on coming to this, and he said
9 "They are trying to sell it to Alfred University,
10 and once Alfred University owns it, it's a
11 dormitory and it's tax exempt." So the property
12 that is currently taxable, will then join what in
13 this Village -- what we in this Village of Hamilton
14 enjoy a lot of property that's tax exempt and this
15 may end up there too, again, down the road, not
16 necessarily now. Thank you.

17 GEOFF HOLM: My name is Geoff Holm.
18 I'm a resident at 31 Montgomery Street and I'm a
19 faculty member at Colgate University. First I'd
20 like to thank Fairmount Properties for their
21 interest in making a significant investment in the
22 Village of Hamilton. I appreciate the state of
23 desire to build a high quality project and I
24 welcome the modifications they made to their plan,
25 including moving the building to a street front

1 presence and excluding green scape as potential
2 mitigators.

3 I also appreciate the desire that they
4 spoke of at the Zoning Board meeting on the 17th,
5 to be a part of the community, and it is this
6 sentiment that I would like to address at this
7 meeting. This Project that's proposed will not
8 nearly be a part of the community, it will
9 fundamentally change our community and irrevocably
10 alter the relationship between Colgate and the
11 Village of Hamilton. As a resident of the Village
12 of Hamilton and a Colgate faculty member, I
13 understand that Colgate and the Village of
14 Hamilton -- I'm grateful that Colgate-based
15 businesses, such as the bookstore, provide a
16 commercial anchor for other downtown businesses.
17 I think it's appropriate for housing for students
18 living off campus and should be concentrated in the
19 Village core and not on residential streets. I
20 believe that the current model of separate
21 apartments, each accommodating two or three
22 students, located above retail stores in the
23 Village is reasonable. But even with these
24 arrangements, to me it still feels like the Village
25 and the campus are separate and distinct. Colgate

1 students primarily live on campus and come downtown
2 to shop or go to restaurants or movies and, yes,
3 even attend the art center.

4 This proposed Project, however,
5 significantly alters that model. Nowhere else in
6 the Village will there be such a high concentration
7 of students living in one location. Whether it's
8 in a boardinghouse or collection of multiple
9 boardinghouses or, for all intents and purposes, a
10 privately owned dormitory. In essence, this
11 Project removes, for all time, any perceived
12 separation between the Colgate campus and the
13 Village of Hamilton. It's the final crossing of
14 the line between downtown Hamilton as a place where
15 some students live and shop to downtown Hamilton as
16 an extension of Colgate's campus. I can live in
17 the Village Center and partake in what Colgate
18 offers with sporting events without the Colgate
19 campus being in my backyard. Perhaps this is the
20 Colgate Administration and the developers, but it
21 is not my vision, and I do not believe that it is
22 the vision of many Colgate faculty and staff
23 members that I talked to, nor many of the Colgate
24 affiliated and Hamilton residents.

25 I do not believe that, under the

1 general standards, the Board must consider that
2 this vision is in the harmony with the character of
3 the neighborhood, nor is it with the Village of
4 Hamilton. I don't dispute that some form of a
5 residence for Colgate students is an appropriate
6 use for the property and there, in fact, be a
7 reasonable way to accomplish the goal of off-campus
8 students to the Village core. However, the size
9 and scale of this Project is not appropriate and it
10 will change the character of the neighborhood. I
11 do not believe that 10 percent of the senior class
12 should be living in one building in downtown
13 Hamilton. A development with a better balance of
14 retail space, with student residences, would be
15 more in keeping with character of the downtown
16 area. Having fewer students on the property, such
17 as those that are allowed in the 14 or so units
18 under a multi-dwelling zoning, will alleviate any
19 of the concerns that parking, traffic and noise
20 that this current structure presents.

21 In closing, I believe this represents a
22 really strong opportunity, maybe the one
23 opportunity for the Village of Hamilton and Colgate
24 to get this relationship right. There will be, and
25 should be, students living in the Village, but this

1 Project will dictate the nature of how those
2 students inhabit the Village. Such a crucial
3 decision requires careful thoughts and planning and
4 not a rush through the system, not with key
5 features of this proposal changing on a weekly
6 basis, nor with attempts to reframe the Project to
7 change zoning restrictions. It requires input from
8 multiple constituents and a careful analysis of its
9 long-term effect on the Village and a thorough
10 approval by Colgate structure, which I do not
11 believe it has received. It should be in character
12 with the neighborhood and not be objectionable to
13 nearby properties, including my property at the
14 site adjacent at 31 Montgomery Street. Now, as we
15 all know, any development will never please anyone,
16 however, this location, in particular, however it's
17 developed, it should be something that has
18 residents excited about and excited about for the
19 future of our community and not worry about it, and
20 that is what it will take for Fairmount to be a
21 part of our community. Thank you.

22 WANDA WARREN BERRY: I'm
23 Wanda Warren Berry. I have lived in the Village of
24 Hamilton for 57 years, on University Avenue, since
25 1960, at 49 University Avenue. I have written my

1 concerns, as someone who taught at Colgate for a
2 long time and has been a member of the Colgate
3 community, to President Herbst with copies to some
4 others who are here and that ended up -- I didn't
5 bring a copy, I'm not going to read it. I'm going
6 to ask a couple questions appropriate to the
7 Planning and Zoning Board.

8 I do want to say that the gist of my
9 letter to President Herbst, was to ask him to
10 withdraw the agreement to guarantee students living
11 in this facility. I believe we need development in
12 the Village, we need rental housing that's
13 attractive. I would rather see apartments of 1 or
14 2 bedroom size that are available for adults to
15 apply for and pay for, but not as dominantly
16 student housing. I have watched this community and
17 I have watched Colgate students for many years. I
18 think this is a bad idea both for Colgate and for
19 Hamilton. It moves against the direction Colgate
20 has been taking step by step from buying out the
21 Greek letter houses at great expense in order to
22 have supervision of student residences. Now to
23 have one which is not supervised by the university
24 at all seems to me to be a mistake. Not staying
25 with that, I have a couple of practical questions

1 to the Fairmount Properties' presentation. They
2 spoke of -- first of these number of bedrooms,
3 twelve units with 4 bedrooms, twelve with 2
4 bedrooms and 1 single and then they said 73 beds.
5 If you know student living like I do, from to time
6 as a 26-year-old, I went with excitement to an
7 open-house at a fraternity house here on Broad
8 Street thinking, having in my mind, those romantic
9 pictures of fraternity houses in the movies and I
10 got there and was entertained downstairs and then
11 they showed me the set rooms and I was appalled
12 that they were happy to sleep in bunks with many
13 people in a room, so that they had other rooms for
14 social purposes. Do you mean 73 beds, 73
15 individual students or don't you know that, when
16 there are parties, many more students will be
17 bunking there? And maybe will you write into the
18 lease the requirement that there not be extra
19 people in those bedrooms for extended periods, it
20 seems to me it's not going to be just 73
21 individuals, at least from my observation of
22 student life. I also am curious whether the
23 buildings are planned to have elevators, because
24 they are supposed to guarantee accessibility for
25 persons with disabilities. And I'd like to know,

1 and I assume you will look into this, whether they
2 will be made accessible through elevators. If
3 we're going to do that, then why not plan so that
4 it's open to any adults -- responsible adults in
5 the community who want to pay the rent rather than
6 having students there? Thank you.

7 BOB MCVAUGH: I'm Bob Mcvaugh and I
8 live at 42 Board Street. I work for Colgate and I
9 have been involved in the Village and been active
10 on the Planning Board for roughly 25 years. So I
11 guess we can post questions we have the confidence
12 that you will find the answers to, even though they
13 will not be -- we won't have responses, which is
14 the way we are preceding.

15 MR. LARSON: Correct.

16 BOB MCVAUGH: Thanks. Also, thank you
17 for your work; you take on a lot. First of all, I
18 understand that at this moment or sometime today
19 that there has been written notification of the
20 agreement with what is it -- 9, the neighboring
21 property to the south and I'm assuming that we
22 would not proceed in anyway without seeing that
23 document. As it was described -- and I'm not a
24 stenographer, so I don't get all the words down,
25 but as it was described, it referred primarily to

1 parking. In the map it actually -- parking and
2 traffic -- I just want to remind the community and
3 the Board that is not the only issue involved there
4 and that this Fairmount would need to have
5 authority to charge the use of various parts of
6 that property for screening, for lighting and for
7 all other operational aspects. So that their legal
8 control of that property cannot seem to me -- not
9 seem to be an agreement of mutual access. They are
10 speaking legally. They must be - in any commitment
11 that they make - must be binding on that owner and
12 that must be in writing. Seems to me it must be in
13 writing, because we have been burned by that in the
14 past.

15 Secondly, I agree with -- and this is
16 very strange, because those of you who know the
17 history -- I agree with Norm Von Wettberg on a
18 number of points, so we should mark this down on
19 the calendar. The issue to me boils down to -- I
20 think that there can be issued, given our practice,
21 a special permit for 12 group residences would be
22 the way the practice would be on this property, but
23 it does leave out, in the entire discussion and in
24 the discussion so far, the operation of the
25 multi-family dwelling. They are not ancillary and

1 I think that it would be inappropriate to consider
2 apartments which would are not bound for transit
3 and temporary occupancy, which group residences
4 are, to be dominate and therefore embracing both
5 commercial and what are single family or family
6 dwellings. The 1 and 2 -- the rooms which are 2
7 person or 2 bed occupants and which by definition
8 cannot -- cannot be based on the testimony we have
9 had -- group boardinghouses, and I apologize the
10 error I made by group residences. Boardinghouses
11 are the only way they could be, is if the intention
12 is that, in a 2 bedroom unit, there are more than 2
13 occupants and therefore making the 3, but in that
14 case, it throws the entire application into
15 question, because the count, as presented, is that
16 a bed equals -- or a bedroom equals an occupant, as
17 it's been presented. So I think you need to
18 exercise great vigilance in that particular area.
19 I also -- and this is the hardest thing based on my
20 experience, with the Planning Board for the
21 community to understand, but not for the Planning
22 Board, but I speak to you and hope it echoes, use
23 cannot be bound to the proto stay to the
24 operational protestations of a particular developer
25 or the current owner. The limits of use and

1 operation on this property will pass onto the next
2 decade to 20 years out. There cannot be any
3 commitments of continuous ownership, but the use
4 rights endure. The promises of closed windows, I
5 think you need to check the legality of anything
6 which involves operational constraints. I know
7 conditions can be put on and I also have
8 read -- and I have enormous confidence and
9 affection for Jim, and he should be the one saying
10 what kinds of conditions you might be tempted to
11 make that are actually legal, because there have
12 been rulings of conditions related to the
13 operations of an approved use, and they can get
14 thrown out in court, I think, so that's a place of
15 great care. I'm not questioning the intentions of
16 the applicant for now, for this moment, but the
17 chances of those being controlled 10 years from now
18 or 20 years from now are very, very small, and the
19 community will endure.

20 Now, the last piece you also received
21 from -- or I circulated some notes. But one point
22 that has not been raised -- actually, two points I
23 want to make, that have really not been articulated
24 directly. First of all, the purpose of the B2
25 District is worth attending to. The Zoning Law

1 specifies that the purpose -- sorry I should have
2 had this marked. Let me read for the community,
3 the purpose of the Business District. "The purpose
4 of the Business District is to designate areas
5 where retail stores, personal services, offices,
6 municipal services and institutional and
7 recreational facilities are provided." A building
8 which is primarily residential is not in that list.
9 "Designate areas appropriate for
10 commercial" -- and actually that is A. And if you
11 read the structure of this, it suggests that it
12 applies to the B1, B, which implicitly applies to
13 the designate areas appropriate for commercial use,
14 which are oriented to either highway use or
15 intended for service to vehicles or non-retail
16 commercial uses, and then C, designate areas best
17 used as industrial uses because of location,
18 topography, transportation, existing facilities. B
19 is the key, B is B2. And this is one of the few B2
20 properties that are located close enough to the
21 center of town that it provides both pedestrian
22 access and vehicular access. This is an
23 extraordinary valuable property, and the Zoning Law
24 makes it clear that its purpose is for commercial
25 uses. Now, to take a building -- I don't know the

1 total square footage, it's something like 35,000,
2 33,000 and to designate 1/33rd of the
3 property - and certainly I don't know the
4 percentage in terms of use, because the commercial
5 piece seems to be the one that's, kind of, an
6 afterthought - is to take this property to a place
7 which is allowed by special permit within the
8 District, but certainly not in harmony with the
9 purpose of the District as stated. And I'm not
10 suggesting that this is somebody's vision or
11 somebody's dream. This is the law. And when we
12 get to a special permit, and I fear -- and here I
13 will say, I fear if we lose this property for its
14 appropriate purpose, its designated purpose for a
15 commercial property, the depth and the richness of
16 the downtown Business District will be compromised
17 significantly. We won't feel that right away,
18 because we will have a lot more people eating pizza
19 and at the Stewart's to buy sandwiches, and that's
20 great. But in terms of keeping a healthy,
21 long-term diverse economy, which the plan -- which
22 the law is designed to enhance, to dedicate this
23 property to residences, is in my judgment,
24 inappropriate, and that is one of the concerns of a
25 special permit, and I simply -- for the community,

1 as you folks know this better than I do, I'm sure
2 on the Board -- but it says it is the location,
3 size and character and size of the use will be in
4 harmony with the character of the neighbor, which
5 in this case, is a residential and commercial
6 neighborhood and will not be detrimental to the
7 orderly development of the district, which is the
8 business district in which it is situated.

9 It goes on to say that the proper use
10 and value of nearby land and buildings will not be
11 impaired by the location, size, height and nature
12 of the buildings, et cetera, and the use will not
13 be objectionable to nearby properties. No one, no
14 one can believe that this Project as presented will
15 not be detrimental to the value of the neighboring
16 properties, particularly in the Residential
17 Districts, but it is an unprecedented intrusion in
18 terms of the number of boardinghouse occupants. I
19 will stop at some point.

20 I do want to publicly read into the
21 record the first line of the specific - I always
22 get this word - standards that apply to the
23 existing and new boardinghouses, and I quote "Do
24 regard shall be given to the safety hazards
25 associated with boardinghouses. They are

1 potentially unstable conditions and exploited
2 character and their possible blighting affects on
3 the surrounding neighborhood." It seems to me, as
4 someone from the cheap seats, that it is impossible
5 to approve this application for a special permit
6 because the concentration of boardinghouse activity
7 crammed into a single lot, which now is neighboring
8 a number of residential properties and, hence, in a
9 mixed district is a scale we have never seen and
10 its potential for blighting is extraordinary. So I
11 urge the Board to look very carefully at all
12 elements, not looking at operational compromises or
13 accommodations, which may become illegal in time or
14 forgotten in time, and to protect the central
15 downtown diverse, long-term development for
16 Hamilton as a residential community and not simply
17 a campus community.

18 BARBARA REGUNSPAN: My name is
19 Barbara Regunspan and I live at 19 Hamilton Street
20 and I teach at Colgate, and the only point that I
21 wanted to make, that hasn't already been made,
22 although it's been slightly suggested, and I wanted
23 to make it a little bit more emphatic, is the
24 notion that the Project itself is a travesty from
25 the perspective of faculty governments at Colgate,

1 because faculty has been heavily involved in the
2 living the Liberal Arts Initiative and in the
3 master plan, and this Project completely
4 contradicts the purposes of both of those
5 initiatives. They were strongly -- both
6 initiatives that the faculty supported
7 overwhelmingly had to do with, first of all,
8 working towards mixed-age housing for Colgate
9 students, so that the idea of a concentration of
10 seniors in one place is against all the -- you
11 know -- all of our plans. And the other thing was
12 the idea of much more integration of residential
13 communities with the educational objectives of
14 University. That's what the Liberal Arts
15 Initiative is about. And I think it wouldn't be
16 fair for me to say that the Planning Board
17 necessarily has a say in the success and the
18 non-erosion of faculty governments at Colgate. I
19 actually believe that's true, but I don't think it
20 would be fair for the faculty to say that it's your
21 obligation to support faculty governance at
22 Colgate. But the thing I do think is fair, that is
23 related, is a lot of Colgate faculty are here and
24 as far as I know, and I don't think I'm
25 exaggerating, I think they are all opposed to this

1 Project. I know that three quarters of the English
2 Department is here, so that's all I want to say, is
3 that I think it's like a collusion of two
4 corporations against both community and faculty;
5 and in other words, you have Fairmount Properties
6 and then the tendency of private
7 colleges -- actually even public colleges now to
8 turn into corporations, and it feels to me, as a
9 faculty member, that that's what's going on, two
10 corporations not upholding the interest of faculty,
11 community and faculty as community. Thank you.

12 ROB SCHUTT: My name is Rob Schutt and
13 I live at 40 Montgomery Street and I'd like to add
14 an addendum to the comments that Bob made just a
15 few minutes ago. Again, repeating the one special
16 condition. "The location, size and character of
17 this use will be in harmony with the character of
18 the neighborhood and will not be overly
19 determinantal to the early development of the
20 district in which it is situated to adjacent
21 districts." I'd like to tie that back to the issue
22 of supervision. Among other things we heard this
23 evening are some more new ideas about supervision.
24 As I understand the original application, it was
25 for one supervisor to be employed and to live in

1 this residence. One supervisor. This evening we
2 heard potential several times. We might
3 potentially hire a second, we might potentially
4 hire a third, we might potentially hire a parking
5 lot attendant. Potential, potential, potential.
6 None of that is in writing. It even strikes me it
7 attempts to bend over backwards to prevent it.
8 Assume the best case scenario, assume they hire
9 three full-time supervisors, what does that mean,
10 each is on duty for 8 hours a day, 7 days a week,
11 365 days a year? What power do these people have?
12 Do they form a little -- once again, a best case
13 scenario of three, to they form their own little
14 committee, where they get to decide who stays and
15 who gets kicked out? Does one person on that
16 committee have a veto power over the others? Does
17 it have a unanimous decision? In short, this whole
18 issue of supervision seems not well, incredibly
19 vague, not well thought out at all, and because of
20 that, it would be very detrimental to the District
21 which this is supposed to be housed. Thank you.

22 MICHAEL CLOUGH: Board members, my name
23 is Michael Clough and I live at 49 Main Street and
24 I own 49 Main Street and I lived there since 1980.
25 I am a retired businessman from the community and a

1 retired professional businessman. My wife and I
2 are both pharmacists and we owned College Pharmacy
3 from 1978 until about into 9 years ago when it was
4 sold to Kinney's, and my wife still works for
5 Kinney's. I represent myself and I hope a large
6 portion of the community. I find it very
7 interesting that at an earlier informational
8 meeting with Fairmount Properties, when I
9 questioned the feasibility of this Project
10 proceeding with the less than 84 tenants and at the
11 time it was understood they would have 61 without
12 any questions or any variance or any determination,
13 other than what you had already given them, and
14 that was absolutely not feasible, and yet tonight,
15 they can do it with 72. That's interesting. The
16 question of supervision, and my understanding was
17 it was 24/7, and now it possibly is and we're
18 looking at it and it's whatever. Aren't these
19 students moving off campus to get away from this
20 supervision? For the past 20 years Colgate has
21 worked, I thought, diligently to move students from
22 the downtown community back to campus. And isn't
23 that why all those apartment buildings were built
24 south of the campus? I don't want to reiterate or
25 rehash what Bob Mcvaugh has said or what Norm Won

1 Wettberg has said. I do have a question for Paul
2 Curtin, however. I wonder how he found his
3 conversation with Jay Curtis? Did he find him warm
4 and outgoing and a friendly individual? I had some
5 conversations with Jay Curtis when he first came
6 into town and I didn't find him anything such as
7 that. I think, maybe, Mrs. Wayne Foster from
8 Lebanon Street might have found him much more warm
9 and friendly, only that he knew he was dealing with
10 a pretty woman on the other end. Thank you.

11 CHARLIE NAEF: I have rarely seen the
12 community as united as today. Bob Mcvaugh and I
13 are on the same side of the issue. I was mayor at
14 the time Colgate came downtown. I helped
15 facilitate that movement. I have defended
16 Colgate's plan for a museum downtown. Two weeks
17 ago I would have proposed this Project, but I
18 learned, to my astonishment, that Colgate is
19 planning to build - and let me call it what it
20 is - a dormitory in the center of the Village. I
21 said that is too much. The question I have for
22 Colgate, we were told that you planned within the
23 next few years to add 100 more beds to the hill.
24 Is this a temporary solution for a shortfall in
25 housing on Colgate's plan?

1 BILL STEELEY: Bill Steeley. I have a
2 farm in Franklin, New York and it's about an hour
3 south of here. The reason I am in Hamilton is
4 because Colgate University is here. I have a
5 business here and I have a business in Franklin. I
6 have been in the community for about 10 years,
7 during that time I have seen the efforts of the
8 PCD, the Hamilton Initiative and it astounds me
9 what good partners they have been in the downtown
10 businesses. I have been told that this 80 unit
11 student housing complex is in an effort to get
12 students away from the residential areas of
13 Hamilton, and I believe that. I believe that
14 Colgate's intentions are good. However, they
15 haven't done anything to keep students from living
16 in the community, and I think until that's
17 addressed all this planned development is a glut of
18 student housing and I think it's a failed attempt
19 to do what their noble intentions were, which was
20 to get people concentrated in downtown. Thank you.

21 SUE MCEAUGH: My name is Sue Mceaugh
22 and I live at 42 Broad Street and I lived in the
23 Village for 34 years and I'm the former mayor of
24 the Village of Hamilton. I wanted to say one
25 thing, when I was the mayor, I got to travel all

1 over the state representing the Village residents
2 and everywhere I went people would say "Hamilton,
3 that's the greatest place. Oh, Hamilton, what a
4 beautiful Village you have." And I think it's time
5 we Village residents say "We know how to do this.
6 We don't have to depend only on Colgate." Sure
7 it's a partnership, but let's stick up for what we
8 think is right, because it surely was working 10
9 years ago. Let's get back to that idea that it's a
10 partnership and not just doing whatever Colgate
11 wants us to do. Thank you.

12 CHARLIE GETCHONIS: Charlie Getchonis
13 and I live at 8 John Street. I'm a lifetime
14 resident of Hamilton, and as a lifetime resident,
15 I'm kind of used to the Village the way it looks
16 now, and believe me, it looks great now. A lot of
17 that is thanks to Colgate, but this simply to me is
18 too huge. It's just too big and there's too many
19 students in one area. And those of you who know
20 students, basically, know what will happen in a
21 place like that. But what I wanted to say was, I
22 wanted to thank Bob Mcvaugh for all of his writings
23 on Nextdoor Hamilton. He spent a lot of time
24 trying to straighten out the Village Laws that are
25 a little difficult to read. I was kind of upset

1 that he's been 25 years in the Planning Board and I
2 thought he had that book memorized and here he is
3 opening it up having to read from it, but if you
4 want to know what's going in that book, it's Bob,
5 and I thank him, and if you're not on Nextdoor
6 Hamilton, get on there, because you're missing
7 stuff.

8 I was mayor in the '80s, I was mayor in
9 the early 2000s. In the '80s we had students
10 living off campus. The reason they were leaving
11 off campus is that as seniors, they spent their
12 whole life living in school, and in college they
13 spent their life whole life living in a dormitory.
14 So why have the privilege of going off campus? Is
15 so they can learn to live with us, because when
16 they graduate Colgate, some of them are going to
17 work, some are going to find a place to live and
18 they are going to have to live among normal people
19 and they have to find out how to do that, because I
20 really don't think they know how to live in a
21 neighborhood, and that was part of it. I used to
22 go and speak to students that were going to be off
23 campus and I'd give them some information about
24 garbage pickup and where to pay your electric bill
25 and stuff like that that they have never done

1 before. Now to get ahold of the police, not campus
2 safety -- and I thought it was a good reason to
3 have seniors live off campus. This Project just
4 negates that, because they are not living among us.
5 I'm not sure what they are learning from that.
6 That's all I have to say. Thank you.

7 MIKE MORDUS: My name is Officer Mordus
8 and I'm with the Village of Hamilton Police
9 Department and I didn't practice for this, but I
10 heard a lot tonight and I just want to say in
11 regards to all of the laws, sounds like a great
12 idea, but like Charlie said, it's way too big. You
13 can have as many people as you want there
14 monitoring it, but you're going to need more law
15 enforcement. I broke up big huge fraternity
16 parties that are exactly in the dorms like this and
17 I have seen what kids do when they leave. They are
18 upset the cops broke it up, they destroy property
19 and they destroy everything they can destroy just
20 to get back at us. What's that going to do to you
21 people? Call us, because you're going to get stuff
22 broken. I just wanted to say it's too big, too big
23 for our community to handle that many people in one
24 little area. We have had riots at the Palace
25 Theater -- I mean, now you're putting people there

1 that live there in that area -- and I just don't
2 agree with that big of a facility. And that's all
3 I got to say.

4 JEAN DEMING: My name is Jean Deming
5 and I have been involved with Hamilton for almost
6 40 years and for the last 8 years I have been
7 working with people like Charlie Getchonis and
8 Ed Vantine with the hope we could have senior
9 housing. We have a lot of people who live in
10 rather large houses within the Village that would
11 like to downsize and really need a place where they
12 could do this, nice, maybe, two bedroom apartments.
13 These are people who would be quiet, we wouldn't
14 cause a lot of trouble, Officer Mordus wouldn't
15 have to come and break up fights. I do think it
16 would be a perfect arrangement, because if you
17 noticed, there are lots of people who are older and
18 enjoy a lunch at the Inn. Our library and our post
19 office are gathering places. We once had something
20 called the Bluebird where we could all hang out.
21 It was mutual ground where everyone was welcomed
22 and I would think a place like this modified would
23 be a great spot. So if you're still interested,
24 would you just give us a shake and see if this is
25 something you might consider.

1 TOM DAVIS: Tom Davis, 35 Maple Avenue
2 and a Colgate faculty member and a member of the
3 Zoning of Appeals, and thanks to Jim Stokes and the
4 entire Planning Board for the opportunity you made
5 here for people to come down and ask their
6 questions. Mainly, I just want to ask you, Morgan,
7 to do the same thing you did last time, to read
8 both the Special Standards and the General
9 Standards for granting the special permit, rather
10 than the Specific Standards and the General
11 Standards. You may have been planning to do that
12 already, in which case I apologize. I'd also like
13 to ask the Planning Board to keep in mind, as they
14 deliberate on this proposal, which the Zoning Law
15 has separated large scale student residences from
16 the Village, to the extent that within the
17 institutional district, Colgate's District,
18 essentially, any use other than a 1 or 2 family
19 residence must secure a special permit if it's
20 within 300 yards of a residential neighborhood.
21 That's suggests quite clearly of the weariness
22 about the relationship of Colgate and Colgate
23 structures and especially large residences. As you
24 all know, fraternities, sororities and dormitories
25 cannot be built in B1 or Residential Districts or

1 any other Business District in the Village. I
2 think that is worth considering as a possible key
3 to the intent behind the Zoning Law as you
4 consider, especially, the General Standards. Thank
5 you.

6 MR. LARSON: I think I'll allow the
7 applicant -- there was some questions raised to
8 them and give them an opportunity to answer those
9 questions.

10 MR. CURTIN: First of all, let me
11 assure you that I'm not a former member or a mayor
12 of the Village of Hamilton. I'm a proud resident
13 of Madison County, where it's a sister community
14 that has a much smaller college in its midst and
15 we're very familiar with some of the issues and
16 concerns you have raised and are sensitive to them,
17 as well, respectfully. I would also like to say I
18 am extraordinary pleased that three quarters of the
19 English Department from Colgate University are,
20 apparently, here. As the proud father of a member
21 of the class of 2002, and an English major, I would
22 like to report back to you that not only is he
23 living well in society, he is making his way and
24 quite successful, and attributes all that success
25 to his experience here in Hamilton and at Colgate

1 University. So I sent my son and my money here and
2 I'm very gratified with the return. Moreover, I'm
3 familiar with off campus living, because he lived
4 on Lebanon Street in one of the units or apartments
5 that was made available to seniors, along with
6 several friends of his. I was able to see
7 firsthand the quality of the living they were
8 engaged in and I'm not unfamiliar with it, believe
9 me. He got through it, he made a contribution to
10 the community here and he's making a contribution
11 to where he lives right now.

12 In answer to the questions raised by
13 Mary Jane Walsh, I will tell you, yes, there are
14 kitchenettes in each unit, there are bathrooms in
15 each unit, and what we already calculated is that
16 the sanitary sewer system that's here in the
17 Village is more than capable of handling any of the
18 discharge that this type of complex would generate.

19 I would also like to say that I worked
20 for over 35 years in Planning and Zoning in Central
21 and all of Upstate, New York, and seeing and
22 hearing that we have two apparent foes, Norm and
23 Bob agree on an issue, is historic in nature and is
24 kind of like watching Bob Congel and Stephanie
25 Miner agree on anything in the City of Syracuse. I

1 applaud you for that, seriously. I make no light
2 of that, but in answer to the real questions, this
3 building would have an elevator, it would be
4 handicap accessible. It would be all New York
5 State Fire Prevention building codes as mandated.
6 All of those amenities would be there, as is
7 required. The total occupants, in answer to
8 Ms. Berry's question, would be 73 by lease
9 agreement -- independent lease agreement with each
10 and every occupant in the building. No doubling
11 up, no bunk beds, no warehousing of students. The
12 occupancy would be by lease agreement and overseen
13 that way. She also asked a question with regard to
14 elevators, which I already answered.

15 There is a Special Use Permit that this
16 Board must consider in order to allow this Project
17 to go forward in any duration. That Special Use
18 Permit is reviewed on an annual basis for
19 compliance with whatever conditions are imposed by
20 the Board, on the application. I find, as I stated
21 last Wednesday, that that is a key piece to ensure
22 that compliance is undertaken at all levels. The
23 difference between what my son experienced in
24 unsupervised, scatter-site housing in the Village
25 of Hamilton versus what he could have experienced

1 in a faculty like this is night and day. Code
2 compliant, fire protection apparatus, stairwells,
3 elevators, state-of-the-art code compliant and
4 overseen and overseen and overseen by someone in
5 the residence. That's one point.

6 The second point is, the University, as
7 I understand, is made back in the '90s to reducing
8 impact -- the housing impact that students on the
9 Village, according to your a Comprehensive Plan,
10 over 900 students were living in and about the
11 Village area, they made a conscious effort in the
12 University to reverse that and committed to no more
13 than 250 students living off campus. We're talking
14 about the same 250 students, we're not adding to
15 that. The Comprehensive Plan also goes on to state
16 that with the reduction of students within the
17 community, it will afford people who are looking
18 for single family homes to own and rent and afford
19 them the opportunity to acquire them and live in
20 them, thus ending what has been characterized in
21 the code and verbally tonight as a blight or a
22 spread, it's a reduction. It's a reduction to
23 density. Overall density hasn't changed and it
24 actually concentrates the occupancy in a safe
25 building, in a Business District where proper

1 oversight can be exercised. I think it reduces the
2 impact on the community overall.

3 I can't speak to governance issues at
4 the University; I'm not equipped to do that. I can
5 only speak on behalf of my client, but as we read
6 the code, this application is code complaint, it
7 meets all the criteria, in its wisdom, as spelled
8 out for any applicant, not just Fairmount, but any
9 applicant coming before the Planning Board seeking
10 approvals of Project like this or otherwise. We
11 met those, we have exceeded those, we modified our
12 plan, you're right. Some of those modifications,
13 quite frankly, were from the community, revised the
14 commercial, moved the building. We have been
15 engaged in that process now for a few months and we
16 have been -- my client has been responsive to that
17 and listens carefully to what they thought the
18 community was asking them to do.

19 In terms of oversight, we are committed
20 to that. We are committed to creating an asset,
21 not a liability. We are committed to creating
22 something that is beneficial for the community, for
23 the downtown merchants. It doesn't affect the tax
24 base. It enhances the tax base as a vast
25 improvement over what presently exists on the

1 property. With all due respect, it's a benefit,
2 it's a benefit to the community. Other colleges
3 and universities I'm sure -- I'm not going to tick
4 them off and say "Cazenovia does this with
5 landlords and guarantees occupancy." But in
6 essence, almost every college and university has
7 off-campus housing, and mostly all of them
8 do -- engages in some process with responsible
9 landlords so that their students have appropriate
10 housing and are protected during their tenancy and
11 their occupancy. There are standards that the
12 chair read into the record last Wednesday,
13 standards for a Special Use Permit, and I encourage
14 him, as well as Mr. Davis encourages you, to read
15 those in, because we are more than willing and able
16 to comply with those standards of review.

17 In closing, I want to thank the Board
18 and thank the Chair, and thank the members of the
19 Board, Mr. Stokes and those in attendance, whether
20 you're for the Project, against the Project, you
21 have concerns about the Project. I want to thank
22 you for your time, your willingness to attend, and
23 many of you spoke up and shared your opinion and
24 shared your concerns. This is what our country is
25 all about. This is a Norman Rockwell moment, and

1 like it or not, this is a participatory government
2 and you have been asked to participate, and I thank
3 you for that with all sincerity.

4 If there are any questions from the
5 Board that I can answer at this point, as well as
6 my clients, I'd be honored to answer.

7 MR. LARSON: I think we'll hold off on
8 that for the moment. I don't think we have any
9 questions at the moment. I think we will move to
10 deliberations.

11 NORM VON WETTBURG: I would just like
12 to respond to a couple of things that Attorney
13 Curtin stated. He said that students will be
14 removed from the community, if his client is able
15 to build that faculty and, in actuality, at
16 previous meetings you have had several landlords or
17 representatives of landlords, such as Dave Perry,
18 that I can think of specifically, who said, if
19 there aren't Colgate students to fill his units -
20 and I think this is something that all landlords
21 would look at - that the first alternative is
22 Morrisville students, and people can have positive
23 or negative feelings about having more Morrisville
24 students in town, but I think that's the reality.
25 For the applicant to make it appear that the number

1 of students are going to go down, I just don't
2 think it's true. I think there's probably going to
3 be more students in town, and they are going to be
4 a mixture of Morrisville and Colgate students. If
5 you want that, it's fine. If you don't want that,
6 then you should take that into consideration.

7 There's also both been a lot of talk by
8 the applicant and Colgate, that all of a sudden,
9 magically, these student rentals that are mostly in
10 the R1 District, which are the ones that people
11 aren't happy with, are going to, sort of, magically
12 become single-family houses. First of all, the
13 landlords would have to sell them, which most of
14 them said that's not what they are going to do.
15 Second, if they did sell them, I think the price
16 point having sold them and renovated them -- and
17 this is coming from a builder that's been in this
18 community for 30 years -- the price point is going
19 to be higher than what young, untenured faculty can
20 afford, and I think you just need to take that part
21 of Attorney Curtin's statement with a grain of
22 salt. I think it's more complicated than he's
23 making out and that it's just not going to
24 magically happen. I do think that, if this Project
25 is turned down, there is going to be a magic moment

1 where this community can get together and have all
2 of the parties that are involved in the various
3 issues -- and there are many issues -- I think
4 there would be a magic moment where those parties
5 could get together and talk about them in an
6 intelligent way and figure out ways to make the
7 community better.

8 I personally think there is a way to
9 take opportunities to take students out of the R1
10 District. I'm told Roger Mountain feels that way,
11 I'm told Jim Leech feels that way about wanting to
12 do that. I think if more of us were involved in
13 that, we could come with a way that it could be
14 done. This is not the solution to that. All this
15 is going to do is piss off a lot of people, and I
16 think you're going to find out that the landlords
17 that are going to get hurt by it are not going to
18 discuss with Colgate alternatives. Factor that in,
19 I just wanted to correct that, what I thought was a
20 misrepresentation. Thank you.

21 LYNN STALEY: My name is Lynn Staley
22 and I teach at Colgate, and they just announced in
23 the Human Resources newsletter that I taught here
24 for 40 years, which hurt, because it means everyone
25 knows how old I am. I live on Maple Avenue. This

1 is simply a last statement, and it really has to do
2 with the way in which the Village and/or Colgate
3 and Fairmount have handled this.

4 I spent some time this afternoon
5 looking at the Village minutes, and they are only
6 current -- the last one entered was April 15th.
7 There is no reference to any of these things in the
8 minutes. Going to the meeting wouldn't have told
9 you anything. However, on March 18th, there was a
10 little sentence saying "The Mayor reported meeting
11 with Dean Nelson and Dean Brown on March" -- she
12 was going to meet on March 20th to discuss
13 Colgate's master plan and student housing. There's
14 no follow-up record to that. I think that's pretty
15 interesting. I am a faculty member in Colgate, and
16 that's never come up in faculty meetings. In fact,
17 the faculty discovered this last Thursday, a couple
18 of hours before the meeting, when we all get an
19 e-mail from President Herbst.

20 The Village residents discovered this
21 plan after Doug McDonald posted on Nextdoor
22 Hamilton. I think we need more transparency. When
23 Fairmount first bought this property, there were
24 articles in the Maroon News suggesting they were
25 going to do exactly the same thing that Jean Deming

1 argued for, houses that young professionals could
2 buy and seniors could buy. Everyone thought it was
3 great and suddenly you get bait-and-switch and it
4 comes back in July as a dorm in the heart of
5 Hamilton. Now, I know I'm not supposed to call it
6 a dorm, but it is, and I think one thing that's
7 really an issue here are the sorts of private
8 conversations and, in this case, three-way
9 conversations between Colgate and members of the
10 Village Board and Fairmount private developers, and
11 I think that leaves everyone at a disadvantage.

12 As a faculty person, I feel
13 betrayed -- as a villager, I feel betrayed. I have
14 seen 80 students on Maple Avenue at 5:00 in the
15 morning, drunk, wearing hoodies, marching down
16 Maple Avenue chanting. My first move was to pick
17 up the phone and call the police and say "Get them
18 out of here." It's threatening. Those 73 students
19 will have parties. And it's not going to be 73
20 students, it's going to be twice that amount, and
21 there is no guarantee that the sort of danger or
22 the sorts of incidents that we have had when
23 students from other universities come for party
24 weekend. If these things happen on campus, campus
25 police are there and ready. I mean, people have

1 gotten hurt and people have died. We got a police
2 force, we just heard we don't have enough police to
3 handle this. These are real issues, and once it's
4 done, it's done and I think we need to be more open
5 about what we're doing. We know what Hamilton
6 needs; I think we can work towards it. Thank you.

7 PETER BALAKIAN: Peter Balakian and I
8 live on 10 Hamilton Street. Colgate faculty and
9 resident in Hamilton for 34 years. I really just
10 want to, kind of, take off on a piece of what my
11 English Department and colleague and friend,
12 Lynn Staley, has raised here, and I suppose this is
13 from conversation tonight. It really comes down to
14 Mr. Hutzley's statement, and I realized that
15 statement is issued on behalf of -- or from, at
16 least, a piece of Colgate administration. But that
17 statement is suggesting to you, the Planning Board,
18 that Colgate believes the Fairmount Properties
19 Project is somehow essential, important or
20 necessary to Colgate's future and growth, and I
21 think that is false. I think that's false
22 consciousness. I think it is a kind of selling
23 language that undermines the much more complicated
24 realities of Colgate, and a number of people have
25 testified to that this evening. Colgate is a

1 complicated multi-dimensional organization, and if
2 it could be assessed, I don't think the statement
3 made by Mr. Hutzley would represent that organism,
4 and I think it's worth noting, as well,
5 historically, what Colgate has done, and it's noted
6 tonight, important, creative, constructive things
7 to build the Village over the last 20, 25 years.
8 Colgate has also wisely, in certain moments,
9 changed its course as it did in 1990 when it was
10 about to build a dormitory and dining hall complex
11 along Hamilton Street, down the Merrill Ave,
12 formally known as Merrill Ave Lawn, and after
13 thoughtful consideration, changed its plan and did
14 something else that benefited the campus and the
15 community much better, and I wanted to raise that
16 moment too, because it too involved that delicate
17 ecosystem of campus and residential neighborhood of
18 community in its most comprehensive way.

19 I think Colgate is capable of thinking
20 more complex than has been presented tonight, and
21 Mr. Hutzley's statement -- and I think there is a
22 really deep need for a lot more work and a lot more
23 transparent and a lot more thoughtfulness about
24 what it really means to advance Colgate's future
25 within and in conjunction with Hamilton. And I

1 will say that Colgate has done well as a very, very
2 desirable institution of higher education, and
3 Fairmount Properties offerings are not - you
4 know - a big part of the future mix of Colgate's
5 continued success. Thank you.

6 PAT MCGAUGH: I'm Pat Mcgaugh and I own
7 a property at 19 and 21 Lebanon Street in the
8 center of the Village, and one thing we have, kind
9 of, dodged here this evening is the talk of money.
10 This student housing, that you want to call it, is
11 approaching \$4,000 per student, per semester. So
12 to mask it as a benefit to the Village, to the
13 local shop owners, is a disservice, really. It
14 seems to me it's largely all about the money. This
15 outside firm comes in and puts a beautiful building
16 in the middle of town, charging 72 times \$4,000 per
17 semester and suggesting that it would, perhaps,
18 bring more business to the merchants in the
19 Village, when they are gone for a good part of the
20 year anyway. We have seen other similar prospects,
21 i.e. the Hamilton Initiative coming to town, and
22 many other business that are no longer in town and
23 if the Board feels a little bit of skepticism,
24 that's why. I urge you not only listen to what you
25 have heard, but what you have not heard. There are

1 a lot of merchants in the audience today that are
2 not in support of this, and I urge you to rebuff
3 their application for special use. Thank you.

4 MR. LARSON: I'm going to end the
5 public comment section. I think a good suggestion
6 is we will take a 5 minute break recess. If
7 anybody needs to use the restrooms, there's some
8 just out that way and that way. So 9:35 we will
9 get started again. Thank you.

10 (Recess off the record)

11 MR. LARSON: I'd like to start off by
12 thanking everyone that came tonight and who gave
13 their opinions. Thank you for making my second
14 meeting as Chairman of Planning Board very simple
15 to deal with and not causing any trouble. Thank
16 you very much.

17 I'd start off quickly by fulfilling a
18 request to read the General Conditions and the
19 Specific Conditions for the special permit.
20 Starting off with the General Standards, I'd
21 actually give you -- this is Chapter 174 82-D,
22 General standards as I read last week. The
23 standards listed below apply to all special permit
24 applications whether or not others are included for
25 specific situations. (1) The location, size and

1 character of the use will be in harmony with the
2 character of the neighborhood and will not be
3 determined to the orderly development of the
4 district in which it is situated and adjacent
5 districts. (2) The proper use and value of the
6 nearby land and buildings will not be impaired by
7 the locations, size, height and nature of the
8 buildings, walls, fences and signs; the location,
9 size and nature of parking areas; or the location,
10 intensity and nature of artificial lighting. (3)
11 The use will not be objectionable to nearby
12 properties because of loitering, noise, fumes,
13 vibration or lighting. (4) The location, size,
14 site layout and relationships to existing or future
15 streets will be such that vehicular traffic and the
16 assembly of persons will not be hazardous or
17 conflict with the appropriate traffic for the
18 neighborhood. (5) The nature and extent of
19 landscaping will be appropriate to the use and to
20 the neighborhood. (6) The conditions and
21 guidelines for specific uses and buildings as
22 listed below shall apply. Then we switch to the
23 specific conditions -- I'm sorry. I missed number
24 7. (7) For any special permit use that requires
25 site plan review, Planning Board approval with that

1 site, shall be obtained in accordance with that
2 applicable provisions of that 174-54 of this
3 chapter. Which we will be doing with this
4 application.

5 Specific Standards, this applies to new
6 boardinghouses in the R2, B1 and B2 and I2
7 Districts. (All provisions of this subsection E(3)
8 shall be applicable to group residences as they
9 were defined prior to January 1, 2012, and to all
10 special permits and licenses for the operation of
11 group residences issued prior to January 1, 2012.)

12 (a) Due regard shall be given to the safety
13 hazards associated with boardinghouses, their
14 potentially unstable conditions and exploitative
15 character and their possible blighting effect on
16 the surrounding neighborhood. (b) Compliance with
17 all applicable codes and regulations, including the
18 New York State Multiple Residence Law, shall be
19 required for special permit consideration. (c)
20 All boardinghouses in all districts shall be
21 licensed annually. Licenses shall be issued for
22 the period from August 1 to July 21, or portion
23 thereof if the application is submitted after
24 July 1. Upon timely application (see below) each
25 license shall be issued and/or renewed, as

1 applicable, upon a finding of full and proper
2 compliance with each of the following: [1] All
3 state, county and local law ordinances and
4 regulations pertaining to the property. [2] All
5 conditions previously imposed by the Planning Board
6 as part of issuance of the special permit. [3]
7 Proper maintenance and operation of the property in
8 keeping with the character of the neighborhood and
9 in a healthy, safe and sanitary condition.
10 Evidence of improper maintenance and operation may
11 include exposed garbage or litter on the premises;
12 failure to maintain the grounds in a neat and
13 orderly fashion; and parking by tenants on or about
14 premises in undesignated parking areas. Evidence
15 of improper operation may also include the
16 occurrence of incidents or events that constitute
17 violations of the Village code and/or the New York
18 State Penal Law upon the premises. The occurrence
19 of three or more arrests or issuances of appearance
20 tickets, citations or violation notices for charges
21 of violations of any provision of the Village code
22 or of Articles 220, 221 or 240 of the New York
23 State Penal Law upon the premises shall be prima
24 facie evidence of improper operation, and shall
25 constitute grounds for denial of the license

1 application or license renewal, as applicable. [4]
2 All applicable standards set forth in this chapter,
3 including 174-84.

4 This is [d] A special permit for a
5 boardinghouse may be revoked by the Planning Board
6 upon noncompliance with any of the above criteria
7 if such noncompliance is not corrected after notice
8 to the property owner and alter -- I'm assuming
9 that's a typo and is supposed to be after a hearing
10 in accordance with the following procedure: [1]
11 The property owner shall be provided with a notice
12 of hearing setting forth at least a date, time and
13 location that the owner can be heard by the
14 Planning Board with respect to the noncompliance.
15 Such hearing date shall be no less than 10 days
16 after mailing. [2] After the hearing, the Planning
17 Board may determine whether or not the
18 noncompliance or circumstances giving rise to the
19 noncompliance have been corrected. If not, the
20 Planning Board may revoke the special permit. This
21 is [e] The property owner may reapply for a special
22 permit for a boardinghouse upon establishing
23 compliance with the above criteria. [f] All new
24 and existing boardinghouses shall be required to
25 obtain a license annually. Licenses issued for

1 boardinghouses shall be valid for one year, from
2 August 1 to July 31. A complete application for
3 renewal shall be submitted to the Enforcement
4 Officer by May 1 of the expiring year. The
5 applicant shall schedule with the Enforcement
6 Officer the necessary inspection of the residence
7 so that the inspection shall occur no later than
8 July 15 preceding expiration. Upon such timely
9 application and inspection, the Enforcement Officer
10 will renew the license upon a finding of full and
11 proper compliance with all applicable standards.
12 [g] If the operation of the boardinghouse is not in
13 compliance with the conditions of this section, or
14 any other applicable standards, or there are other
15 indications of improper operation as set forth in
16 Subsection E(3)(c)[3] above, and/or complaints from
17 neighbors or the Police Department, the Planning
18 Board shall review the special permit for that
19 location. The Planning Board at that time may
20 impose additional conditions upon the special
21 permit or may schedule a public meeting to revoke
22 the special permit. [h] The Enforcement Officer is
23 authorized to issue an appearance ticket upon
24 discovery of occupancy of any boardinghouse,
25 without a valid special permit or license pursuant

1 to 174-76. There shall be a late fee, as specified
2 by the Village Board, for renewal applications
3 submitted after May 1 and for scheduling of
4 inspections after July 15.

5 It goes on to talk about group
6 residences and fraternities in the same section,
7 but I believe that's it for boardinghouses. I
8 would like to start off by requesting from the
9 applicant the information of the site plans,
10 et cetera and it's for your new -- the new
11 application as it is. You changed the site plan,
12 you changed the floor plans. We need the easement
13 with 9 Eaton Street, we need all of that
14 information before we can begin our consideration.
15 Do you have that tonight?

16 NORMAN ELBIN: We have the site plan
17 and we don't have new floor plans for the units
18 yet.

19 MR. STOKES: You should have an updated
20 narrative description so, essentially, you should
21 have a formal amendment of the application so the
22 Board knows precisely what we're being asked to act
23 upon at this point.

24 MR. LARSON: The first order of
25 business would be the SEQOR. I think we can begin

1 the SEQR, because there are few sections of the
2 SEQR that are -- once we start you will realize the
3 changing of the site plan, and et cetera, won't
4 really have any effect of these sections. Other
5 sections of the SEQR we won't be able to complete
6 until we have the new material in front of us. So
7 I think we can work together and see which one we
8 feel we can do tonight and which ones to hold off
9 on. Beyond that, I don't think we will be able to
10 get much further than -- I mentioned that.

11 Mr. Mcvaugh held up a note about the easement
12 document, which I did mention we are going to
13 require that before we can move on, and that will
14 be -- and it needs to -- Mr. Stokes actually had
15 language that I liked. Essentially, you need
16 complete control of the lot, because you're going
17 to be modifying it in every way that an owner would
18 be able to modify it, so it needs to be a very
19 thorough easement, and we will need that document
20 before we can continue, but tonight we will be able
21 to begin the SEQR, so let's get started.

22 What we call SEQR, I don't know if you
23 heard it, it's the State Environment Quality Review
24 Act and it's required for every determination - as
25 far as I know - every public entity goes through.

1 You need to do this before you can make any kind of
2 determination, and it's just to keep the
3 environment in play when we're making
4 determinations that affect the environment. In
5 this case the applicant has filled out Part 1 and
6 supplied data that we will use to fill out as a
7 Board, the lead agency in this case as it's called,
8 so we fill out Part 2, and Part 2 consists of
9 several questions and we then refer to their data
10 on Part 1 and can complete that part of the form.

11 MR. FULLER: Morgan, can I ask
12 about -- I guess I need to ask Jim this on the Part
13 1 Post Action, they put down the current acreage of
14 the Project and now it has changed again since we
15 have been presented tonight. Do we need to do
16 anything in Part 1 to add to Part 2?

17 MR. STOKES: I think it would be
18 appropriate to update the EAF so it accurately
19 reflects it.

20 MR. FULLER: What is on Part 1 of the
21 short form is not what you presented tonight, and
22 your site plan has changed since we met on
23 Thursday, and our attorney is saying this needs to
24 be updated correctly.

25 MR. STOKES: Please review it, and if

1 there's any information that's currently
2 inaccurate, submit a revised EAR along with the
3 revised statement of the application.

4 MR. CURTIN: We will.

5 MR. LARSON: It comes down to every
6 piece of the application should be resubmitted,
7 whether it's changed or not, so we have a package
8 that's complete and shows what your intentions are
9 now, because I have so many pieces of paper here,
10 I'm not sure what's what anymore. I think whatever
11 you submitted in your original application, submit
12 an updated copy and, again, if there are no
13 changes, resubmit that with it.

14 Section (1) Impact on land. Yes,
15 there's going to be an impact on land. (2) Impact
16 on geological features. The proposed action may
17 result in the modification or destruction of or
18 inhabit access to a unique or unusual land forms on
19 the site; and for example, cliffs, dunes, minerals,
20 fossils, caves. We can mark a no on that one. (3)
21 Impacts on surface water. Proposed action may
22 affect one or more wetlands or surface water bodies
23 or lakes. For example, streams, rivers, ponds or
24 lakes. That's clearly a no. (4) Impact on ground
25 water. Purposed action may result in new or

1 additional use of ground water or may have a
2 potential to introduce contaminants to ground water
3 or an aquifer. I would say no on that one.
4 Everyone agree with that one? Impact on flooding,
5 proposed action may result in development in land
6 subject to flooding.

7 MR. STOKES: The site is currently
8 subject to flooding, because we have a known
9 current of water discharge to properties to the
10 west.

11 MR. LARSON: I think that would be a
12 yes. We can always come back.

13 MR. STOKES: Yes, the applicant is
14 saying it's a beneficial impact, because they are
15 going to remedy the current.

16 MR. LARSON: We will come back and
17 determine that. (6) Impacts on air. A proposed
18 action may include a state regulated air emission
19 source. I'd say that's a no. (7) Impact on plants
20 and animals. The proposed action may result in a
21 loss of flora or fauna. I think that's a no. (8)
22 Impact on agriculture resources. The proposed
23 action may impact agriculture resources, I'd say,
24 no. (9) Impact on aesthetic resources. The land
25 use of the proposed action are obviously different

1 from or are in sharp contrast to current land use
2 patterns between the proposed project and a scenic
3 or aesthetic resource. I suggest no. (10) Impact
4 on historic or archaeological resource. The
5 proposed action may occur in or adjacent to a
6 historic or archaeological resource. I'll have to
7 look that one up. I think we should mark it and
8 come back to it.

9 MR. STOKES: I would leave it blank for
10 now, until we can verify that, but I'm quite sure
11 it's not.

12 MR. LARSON: Impact on open spaces and
13 recreation is 11. The proposed action may result
14 in a loss of recreational opportunities or a
15 reduction of an open space resource or designated
16 in any adopted municipal open space plan. I say
17 no. (12) Impact on open enviromental areas. The
18 proposed action may be located within or adjacent
19 to a critical environmental area. I'd say no.
20 Impact on transportation (13) The proposed action
21 may result in a change to existing transportation
22 systems.

23 MR. STOKES: This is the issue with the
24 Lebanon Street intersection.

25 MR. LARSON: That's a yes. Impact on

1 energy. The proposed action may cause an increase
2 in the use of any form of energy. Yes. Impact on
3 noise, odor and light. The proposed action may
4 result in an increase in noise, odors, or outdoor
5 lighting. Yes. (16) Impact on human health. The
6 proposed action may have an impact on human health
7 from exposure to a new or existing source of
8 contaminants. I think that's a no. (17)
9 Consistency with plans. The proposed action is not
10 consistent with adopted land use plans.

11 MR. STOKES: It's a permitted use in
12 the District, which in and of itself is being
13 consistent. We may want to go back. It's been
14 referenced a number of times. For our own benefit,
15 we might want to pull out the Comprehensive Plan.
16 I would leave that open.

17 MR. LARSON: Consistency with community
18 character. The proposed project is inconsistent
19 with the existing community character. I don't like
20 the way that's worded.

21 MR. STOKES: Look at the examples.

22 MR. LARSON: Okay. I'd say yes. That
23 is the end.

24 MR. STOKES: I would suggest to have a
25 meaningful discussion on the rest and get the

1 applicants revised -- and I don't know what your
2 timetable is for submitting that, but maybe we can
3 reconvene next week.

4 MR. LARSON: We really can't move
5 forward without it, so I guess it's time
6 to -- would you be able to provide them this week
7 so we have time to look them over and have time for
8 a meeting next week?

9 MR. CURTIN: Yes.

10 MR. LARSON: Because we're still
11 waiting for the updated information from the
12 application. We have done pretty much all we can
13 do tonight, so we are going to reschedule another
14 meeting for next Wednesday, at 7:00, at the
15 courthouse, with a tentative meeting the following
16 Wednesday at the courthouse, as well, and that will
17 be the 13th.

18 (Discussion off record)

19 MR. LARSON: She's asking whether you
20 can speak to the nature of the agreement between
21 Colgate and Fairmount Properties and I assume
22 regarding the -- on how the empty
23 beds -- et cetera.

24 MR. HUTZLEY: Brain Hutzley. President
25 Herbst actually addressed a couple landlords, maybe

1 20 of them a couple weeks ago, and so I would
2 consider this public nature, anyhow, and I think
3 the landlords or the folks representing the
4 landlords can answer this question, but Colgate is
5 working with Fairmount Properties on a guarantee,
6 and the guarantee is because, as I read, Colgate
7 feels very strongly about this development and
8 think it's right for the community and the
9 students, so there is a guarantee of the rooms from
10 Colgate to Fairmount Properties for 20 years.

11 LYNN STALEY: Lynn Staley. You can't
12 say "Colgate wants," because I'm Colgate, Bob's
13 Colgate, Jill's Colgate. You know. The Colgate
14 faculty -- this isn't Colgate. It's a couple
15 people at Colgate, in collusion, who has made this
16 decision, who changed the whole plan, who added an
17 addendum to the strategic plan without -- there's
18 been no faculty and it's not Colgate. So you could
19 say a few of us at Colgate, but don't put in the
20 record that Colgate wants, because it doesn't.

21 BARBARA REGUNSPAN: I think you have to
22 say the president of Colgate, you can't say
23 Colgate. And we don't even know about the Board of
24 Trustees. I think you have to say the president of
25 Colgate. You can't say Colgate.

1 WAYNE FOSTER: Wayne Foster and I am
2 wondering, at these next two meetings, is there
3 going to be time for more public comment or is it
4 all over?

5 MR. LARSON: I expect it to be all
6 over, unless there's a substantial change in the
7 application again. And, basically, we have now
8 spent about what, 5, 6 hours listening to public
9 comment and we have spent 10 minutes with our
10 actual work on the Project. At some point we need
11 to cut off public comment and get to work. If
12 something substantial happens, then we may open it
13 up to public comment again, but I will have to wait
14 to see when we get there.

15 BOB MCVAUGH: Bob Mcvaugh. I would
16 hope that the Village, when these materials come
17 in, arrangements could be made for the Village to
18 go out of its way to assure that everyone knows
19 that they are in, that they are easily available to
20 the community and that way the trust will come on
21 judgments of the Board. I have full confidence,
22 but I think there's every reason in this process
23 that the Village not require Freedom of Information
24 Act to get the information related to this Project.
25 We should go out of our way. That's my view.

1 MR. STOKES: We can look at putting
2 them on the website. One of the problems we have
3 had up to now is that submissions have been
4 disjointed, so that's why we have asked for one
5 consolidated one, and that would be easy to put
6 that on the website, hopefully.

7 MR. LARSON: Is it possible to submit
8 hard copies and electronic copies of the plans, and
9 whatnot to the Village and that would be
10 simple -- that would be wonderful, and then we
11 could put it on the website, and I assume the
12 Village can do that. I honestly don't know. I
13 don't know who maintains the website.

14 BARBARA REGUNSPAN: Barbara Regunspan.
15 It's a question and it has to do with the
16 fact -- with the process and the fact that
17 everything changes as a result of these meetings.
18 I understand your need to deliberate at some point,
19 but the problem with cutting off public comment is
20 we keep learning things. Like I didn't know until
21 tonight, for instance, that the developer said
22 something untrue last week when they said there was
23 clearance from Curtis Lumber. I keep finding out
24 things that change my view of the process, and then
25 there's more -- that generates more questions and

1 more public concerns, so I'm not clear about if it
2 is okay, in fact, to cut off public comment this
3 soon.

4 MR STOKES: We hear what you're saying,
5 but ultimately it's up to the chairman, and he said
6 he would take it as it comes.

7 MR. LARSON: We will see what happens
8 next week and see how things go.

9 JANE PINCHIN: Jane Pinchin. If we are
10 living out a Normal Rockwell moment, and I think we
11 are not, we are engaged in a conversation where 98
12 percent of the participants, with very different
13 positions, in lots of places, are on the same side
14 of this conversation. If we stop -- if this
15 changes -- if the facts change, it should be that
16 we still have time to include our voices in your
17 next meeting.

18 MR. LARSON: That's what I said. If
19 there's substantial change in the application, we
20 may open it up for public comment again. If it
21 stays pretty much what was presented tonight, then
22 I don't think we will. We will play it by ear and
23 see how things go.

24 BART HAGERITY: Bart Hagerity, 36
25 Lebanon Street. I was at the Zoning Board meeting

1 two weeks ago and I came here tonight presuming
2 this was another Zoning Board meeting, and this is
3 one of the problems I think with this process is,
4 it hasn't been transparent. Shouldn't the
5 opportunity for public comment come after we have a
6 final and fully submitted application? That to me
7 is just common sense. What we're saying is, we may
8 or may not, depending on what happens, but people
9 here have a right to comment upon a final and fully
10 submitted application, and you don't have one --
11 you still don't have one, and we have done 5 hours
12 of this. Maybe after we have what the actual plan
13 is, then maybe that's when the public comment
14 period needs to take place.

15 NORMAN VON WETTBERG:

16 Norman Von Wettberg. To Mr. Hutzley. Has this
17 agreement with Colgate and Fairmount Properties
18 been signed or is this just an agreement that is in
19 the process? Is there, actually, a signed document
20 that can be submitted or is it a promise of a
21 signed document?

22 BRIAN HUTZLEY: It's been noted several
23 times, there's been a lot of changes, so there is
24 not currently a document. I guess I would ask
25 to -- there's not a final document, no.

1 NORMAN VON WETTBERG: So we don't have
2 a legal binding agreement at this point?

3 BRIAN HUTZLEY: No.

4 MR. LARSON: Our plan, like we said, is
5 to have a meeting next Wednesday night at the
6 courthouse, at 7 p.m. and hopefully the materials
7 will be submitted on Monday, as they said, in
8 electronic format and hopefully the Village will be
9 able to get it on the website for all to see. If
10 anyone is interested, the first step, again, next
11 week is to continue working on the SEQOR, which we
12 started tonight. All of New York's Laws are online
13 if anyone wants to educate themselves on the SEQOR
14 process or any other processes; you can look at the
15 forms and print out copies for yourself, or
16 whatever you would like, that's all available.
17 Come in next week and we'll keep working. I move
18 for a motion to adjourn.

19 (Whereupon, the Hearing concluded)

20 (End time: 10:21 p.m.)

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C E R T I F I C A T I O N

I, **JESSICA M. RIGHTMIER**, a Shorthand Reporter and Notary Public in and for the State of New York, **DO HEREBY CERTIFY** that the foregoing is a true and correct transcript of my shorthand notes in the above-entitled

Date: 8/19/14

JESSICA M. RIGHTMIER,
COURT REPORTER.

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