

KRAMER LEVIN NAFTALIS & FRANKEL LLP

ROBIN A. KRAMER
PHONE 212-715-9163
FAX 212-715-8274
RKRAMER@KRAMERLEVIN.COM

February 5, 2013

By Hand Delivery

Maurice Spreiregen
Land Use Review, Central Intake
Department of City Planning
22 Reade Street, Room 2E
New York, NY 10007-1216



REVISED

Received by Central Intake on February 5, 2013

Re: Culture Shed
Application No. N 130178 ZRM

Dear Maurice:

I understand that some of the copies of the LR Item 3 submitted last week as part of the application for a text change under Application No. N 130178 ZRM were missing a page. Therefore, enclosed please find seven (7) complete copies of LR item 3, with all pages. This should be substituted for the one previously submitted, which should be removed.

Please call me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to be 'R. Kramer'.

Robin A. Kramer

Enclosures

1177 AVENUE OF THE AMERICAS NEW YORK NY 10036-2714 PHONE 212.715.9100 FAX 212.715.8000

990 MARSH ROAD MENLO PARK CA 94025-1949 PHONE 650.752.1700 FAX 650.752.1800

47 AVENUE HOCHIE 75008 PARIS FRANCE PHONE (33-1) 44 09 46 00 FAX (33-1) 44 09 46 01

WWW.KRAMERLEVIN.COM

LR ITEM 3 - DESCRIPTION OF PROPOSAL

**APPLICATION TO THE
NEW YORK CITY PLANNING COMMISSION
for
AMENDMENT TO ZONING RESOLUTION
ARTICLE IX, CHAPTER 3**

I. INTRODUCTION

This is an application (“Application”) by the New York City Department of Cultural Affairs for amendment of certain provisions of Article IX, Chapter 3 of the Zoning Resolution of the City of New York (the “Zoning Resolution” or “ZR”), applicable to the Hudson Yards Special District, to facilitate the development of a cultural facility known as the “Culture Shed.” The Culture Shed is proposed to be developed on a portion of Subarea A1 of the Eastern Rail Yards, between West 30th and West 31st Streets, between Tenth and Eleventh Avenues (the “Culture Shed Site”). The Culture Shed Site would be conveyed by the City to the Culture Shed, Inc. (the “Culture Shed Developer”), a not-for-profit entity, which would develop the Culture Shed, acting as designated developer.

II. BACKGROUND

In 2005, the City of New York adopted special provisions of the Zoning Resolution to enable the development of Hudson Yards (the “Hudson Yards Zoning Provisions”), including the development of the Metropolitan Transportation Authority’s (the “MTA”) John D. Caemmerer Yard (the “Eastern Rail Yard” or “ERY”) located between Tenth and Eleventh Avenues. The Hudson Yards Zoning Provisions identified certain subareas within Hudson Yards, including Subarea A1, which is located on the southernmost portion (between West 30th Street and West 33rd Street between Tenth Avenue and Eleventh Avenue) of the new Hudson Yards neighborhood that extends from West 30th Street to West 41st Street generally west of Eighth Avenue. The Hudson Yards Zoning Provisions envisioned a large mixed-use development over and adjacent to the existing open rail yard (which would continue to operate) within Subarea A1, including the construction of buildings comprising up to 11.0 FAR¹ of commercial, residential and community facility uses, of which up to 2 FAR could be used for community facility use. In 2007, the MTA, as the owner of the Eastern Rail Yard, issued a request for proposals to lease the airspace and a portion of terra firma located within Subarea A1 for development pursuant to the Hudson Yards Zoning Provisions applicable to Subarea A1, and a developer was subsequently designated by the MTA.

¹ An additional 8.0 FAR generated within Subarea A1 is not permitted to be used within Subarea A1 but may be transferred to certain sites in the northern portion of Hudson Yards as part of the Large-Scale Plan Subdistrict A in accordance with ZR Section 93-34.

Development of a cultural facility in the southern portion of Subarea A1 has been an element of the development plan for Hudson Yards since the initial proposal for the development of Hudson Yards. The Final Generic Environmental Impact Statement for the adoption of the Hudson Yards Zoning Provisions (the “FGEIS”) included analysis of a cultural facility containing 200,000 square feet of floor area. The current Hudson Yards Zoning Provisions contain restrictions on the location of buildings in Subarea A1, and provide for the development of a community facility use located within 220 feet of West 30th Street, west of the southerly prolongation of the western sidewalk widening line of Hudson Boulevard East, adjacent to the “connection to the High Line” (defined in ZR Section 93-71(f)), and “not closer than 50 feet east of the ‘southerly prolongation of the western sidewalk widening line of Hudson Boulevard West’” (the “Original Cultural Facility Location”). Pursuant to a Memorandum of Understanding signed in 2010 by the City of New York and the MTA, the MTA agreed to convey to the City an approximately 21,000 square foot lot at the Original Cultural Facility Location with 100,000 square feet of floor area for such cultural facility.

The Hudson Yards Zoning Provisions establish public access requirements for Subarea A1, which comprises a single zoning lot, including requirements for a public plaza, an outdoor plaza, and other public access areas, including a connection to the High Line. The public access areas must occupy at least 55 percent of the lot area of the zoning lot (comprising all of Subarea A1), with at least 40 percent of the lot area publicly accessible and open to the sky.

Since the adoption in 2005 of the Hudson Yards Zoning Provisions, there have been several amendments to these regulations relating to Subarea A1, including an amendment in 2009 concerning the location of buildings and parking and the parking requirements. In 2012, amendments were adopted at the request of the designated developer, ERY Tenant LLC (“ERY Tenant”) relating to the design of the public access areas, sign regulations and retail requirements. At the same time as the 2012 amendment requested by the ERY Tenant, an application by the Department of City Planning to amend the Hudson Yards Zoning Provisions to allow the use of the High Line as part of the required public access areas was also approved.

III. AREA DESCRIPTION

The area surrounding the Culture Shed Site consists of a mix of commercial, residential, light industrial, entertainment, institutional, and transportation-related uses. Zoning districts to the south of the Culture Shed Site include C6-3 and C6-4 districts within the Special West Chelsea District directly to the south, with an M2-3 district to the southwest and C6-4 and R8 district to the southeast. To the east are M1-5, C6-4, C6-2A, R8 and R8B districts. The blocks north of West 30th Street extending east to Eighth Avenue are in the Special Hudson Yards District and are primarily in a C6-4 zoning district, with an M1-5 district located in the midblock between Tenth and Eleventh Avenues north of West 33rd Street, and C2-8, R-8A and C1-7A districts to the northeast.

The designated developer for the ERY, ERY Tenant, is in the process of applying for a building permit for the first tower to be constructed in the ERY, an office building to be located on Tenth Avenue between West 30th and West 31st Streets. ERY Tenant is also preparing plans for a retail

building on Tenth Avenue north of the office tower, and a primarily residential tower west of and abutting the Culture Shed Site.

IV. PROJECT DESCRIPTION

A. Culture Shed, Inc.

The mission of the Culture Shed is to present exhibits, performances and other events across the spectrum of arts and culture, including visual art, design, dance, theater, music and media. The facility's design both facilitates and embodies this mission: the Culture Shed is a flexible structure that can expand and contract as necessary to create a multi-purpose venue that will foster innovation, collaboration, and cross-pollination in the creative sector. Robust community programming, ranging from film screenings to green markets, are also an essential part of Culture Shed's mission. The Culture Shed Organization will produce and present a full calendar of events in its architecturally dynamic spaces that have been designed to museum standards, providing a new platform for artists and multiple audiences.

The Culture Shed will follow a 'Kunsthalle' model: without a permanent collection or affiliation with any one institution, the Culture Shed will operate as a venue for short-term exhibits, performances and special events. The ability to present multiple works or events simultaneously in several spaces will allow for unique forms of collaboration across artistic and design disciplines. For example, a theater or dance company may present performances in a space adjacent to an art exhibit, with the performance and exhibit organized around common or related artistic themes and motifs.

A unique feature of the Culture Shed will be its ability to house large scale exhibits and events not easily accommodated in other venues in New York City; as a result a number of New York City not-for-profit organizations have already expressed an interest in using the Culture Shed as a venue for presenting special programming. The Culture Shed will also provide an unparalleled opportunity for major arts institutions around the globe to present traveling art exhibitions or performances. To that end, the Culture Shed will introduce a Cultural Timeshare program providing contributing global and national partners in the visual and performing arts with large contiguous spaces in which to present shows. The Cultural Timeshare will create a multi-year rotating pool of world-class innovative programming presented by leading national and international organizations.

The Culture Shed will host three main categories of activities:

1. Arts and Cultural Programming that includes art exhibits, visual and performing arts presentations that are:
 - produced and presented by the Culture Shed Organization
 - conceived and presented by the Culture Shed Organization in collaboration with local, national and international not-for-profit institutions

- presented at the Culture Shed by another not-for-profit organization (i.e. a traveling art exhibition or performances by a non-New York based dance troupe).

The majority of performing arts events and exhibits will be ticketed, charging moderate fees similar to those at other New York City not-for-profit cultural organizations and fully open to attendance by members of the public. It is anticipated that at least half of the programming calendar will be dedicated to this type of programming.

2. Public and Community. Programming that will offer free or low cost events and activities including concerts, theatrical and dance productions, seasonal markets, film screenings, family festivals, etc. It is anticipated that one third of the programming calendar will be dedicated to this type of programming.

3. Special Events. Programming that includes not-for-profit and for profit large scale festivals, events and celebrations across the range of disciplines encompassed in Culture Shed's mission, including fashion, theater, visual art and music. Fashion Week is expected to be presented at the Culture Shed, with revenues used to support the Culture Shed's other activities.

Culture Shed will be available for occasional rental by non-profit and commercial entities. Rentals will be made to organizations – non-profit and commercial – whose mission is aligned to that of the Culture Shed Organization.

- The percentage of commercial rentals will be consistent with similar arrangements at other New York City cultural institutions (i.e. the Brooklyn Academy of Music; Carnegie Hall; the Metropolitan Museum of Art; the Museum of Natural History; the Park Avenue Armory).
- A sliding fee scale will be instituted, with favorable rates provided for not-for-profit institutions.

The Culture Facility Plaza, located directly to the east of the Culture Shed building, will be a public open space that may be used for Culture Shed-related events, such as open air exhibits or performances. These will be open to the public free of charge, sometimes on a time-ticketed basis due to limited event capacity. In addition, the Culture Facility Plaza may be closed up to 12 times a year for private events. At times when the moveable shed is deployed over the Culture Facility Plaza, the area of the Plaza will be used for Culture Shed Arts and Cultural, Public and Community, and Special Event programming, as described above.

Although the Culture Shed is still in the planning stages, several not-for-profit organizations have already expressed an interest in collaborating with the Culture Shed Organization or an interest in using the Culture Shed as a venue for presenting their not-for-profit programming. These include the Guggenheim, the Film Society of Lincoln Center, the Hirshhorn Museum, TED Conferences LLC, the Whitney Museum, the Dia Art Foundation, and the Public Art Fund as well as academic organizations such as the Tisch School of the Arts and Columbia University School of the Arts.

B. Description of Project

The Culture Shed will consist of a fixed building (the “Culture Shed Building”), with a retractable shed (the “Shed Portion”) that would be deployed from time to time to the east of the Culture Shed Building to provide additional space for exhibits and events. Portions of the Culture Shed, primarily back office and service facilities, would be located in the residential building (currently known as Tower D) to be developed by the ERY Tenant to the immediate west of the Culture Shed Site, on the east side of Eleventh Avenue between West 30th and West 31st Streets. The City would acquire the lot area needed for the development of the Culture Shed from the MTA and lease it to the Culture Shed Developer.

A plaza, with a lot area of approximately 17,758 square feet (the “Culture Facility Plaza”) would be developed to the east of the Culture Shed Building as part of the required public access areas. This plaza will be covered by the Shed Portion from time to time, in connection with Culture Shed events. When the Shed Portion is not deployed, the Culture Facility Plaza would be used for a variety of activities that would be open to the public.

V. PROPOSED ACTION

The following changes to the provisions of the Zoning Resolution would be needed to enable the construction of Culture Shed:

- Establish a definition for the ERY Culture Festival and Exhibit Facility that would permit all of the activities proposed by Culture Shed and allow them to be treated as community facility uses or uses in Use Groups 3 and 4.
- Modify the applicable sign regulations to allow signs on three sides of the Culture Shed, with a maximum total surface area of 2700 square feet, with not more than 200 square feet of signs facing the outdoor plaza or the connection to the High Line, and allow the use of banners, similar to other community facility uses.
- Revise the existing text with respect to the location of the cultural facility so that the Culture Shed Building may abut, and include support space within, Tower D.
- Allow certain portions of the Culture Shed, including floor area in portions of elevator shafts and stairwells in the abutting residential tower that pass through floors occupied by Culture Shed, to be excluded from the definition of floor area in the Zoning Resolution, so as to permit a facility of appropriate size.
- Provide that in the event that Tower D includes floor area for the Culture Shed, it is not required to have retail continuity facing the outdoor plaza
- Create a new open space, the Culture Facility Plaza, that would be considered open space and open to the sky for purposes of meeting the minimum required open space standards in Subarea A1. The Culture Facility Plaza would be treated as public access area for purposes of the Hudson Yards Zoning Provisions notwithstanding that at times the Culture Facility Plaza would be covered by the deployed Shed.

- Reduce the width of the defined “connection to the High Line” (ZR Section 93-71(e)) from 80 feet to a minimum of 60 feet, to accommodate the new Culture Facility Plaza. Require that any portion of the cultural facility that cantilevers over the connection to the High Line must not project beyond a defined limiting plane or distance over such connection.
- Permit portions of the outdoor plaza (as defined in Section 93-71(b)) to be used in connection with events in the Culture Facility Plaza and to be subject to time-ticketed access for such events, as well as allow roadways within the outdoor plaza adjacent to the Culture Facility Plaza to be temporarily closed to vehicular traffic during such events.
- Require that the Culture Facility Plaza be constructed prior to a TCO for the Culture Shed Building. Clarify that the construction of the Culture Facility Plaza is not a condition to a building permit or certificate of occupancy for any building other than the cultural facility.
- Allow the Culture Facility Plaza (and adjacent portions of the outdoor plaza when used in conjunction with events in the Culture Facility Plaza) to be closed to the public up to 12 days each year in connection with Culture Shed events.
- Facilitate the use of space within Tower D (the residential tower to the west of the Culture Shed Site), to provide storage, restrooms, maintenance facilities or other support space for the ERY High Line by excluding the floor space of such support facilities from the definition of floor area.

VI. CONCLUSION

The proposed amendment to the Zoning Resolution would enable the development of a significant new cultural facility for the City of New York, as envisioned in the redevelopment plans for Hudson Yards.