

1 **Chelsea Land Use (CLU) and Clinton/Hell’s Kitchen Land Use (C/HKLU) Item #: 1**

2  
3 April 3, 2013

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5 Amanda M. Burden, Chair  
6 City Planning Commission  
7 22 Reade Street  
8 New York, New York 10007  
9

10 **Re: N130178ZRM Zoning Resolution Text Amendments to Article IX, Chapter 3**  
11 **Culture Shed Proposal**

12  
13 Dear Chair Burden:

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15 At its regularly scheduled Full Board meeting on April 3, 2013, Manhattan Community Board 4  
16 (“CB4”), based on the recommendation of its Chelsea Land Use Committee and Clinton/Hell’s Kitchen  
17 Land Use Committee, voted\_\_\_\_\_ to recommend denial unless the City provides 20,000  
18 square feet of publicly accessible park space in another location to make up for the loss of public access  
19 and openness to the sky on the 20,000-square foot proposed Culture Facility Plaza, that there be no  
20 encroachment for Culture Shed uses on the ERY central public square and streets to the north of the  
21 Culture Facility Plaza, that an Open Space Advisory Board be formed, and other conditions discussed  
22 below.

23  
24 CB4 is granted the opportunity to comment to the Department of City Planning on a proposed text  
25 amendment under the City Charter, Chapter 8, §200(1). In addition, we anticipate that the City will be  
26 contributing substantial funds to the Culture Shed, making the facility a public project. This gives CB4  
27 further legal “standing” under the City Charter, Chapter 70, §2800(d)(14) which says CBs “assist in the  
28 planning of individual capital projects funded in the capital budget to be located in the community  
29 district...”. We believe this strengthens our position recommending publicly-accessible open space,  
30 mitigation for the loss of such space, and the establishment of a community advisory board for event  
31 programming and open space planning.  
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33 **Background**

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35 On February 13, 2013 and March 18, 2013, CB4’s Chelsea Land Use Committee and Clinton/Hell’s  
36 Kitchen Land Use Committee reviewed the application (“Application”) N30178ZRM for text  
37 amendments to certain provisions of Article IX, Chapter 3 of the New York City Zoning Resolution  
38 (ZR). The Application relates to a proposal by the New York City Department of Cultural Affairs to  
39 facilitate the development of a cultural facility known as the “Culture Shed.”  
40

41 The Hudson Yards Zoning Provisions, adopted in 2005, provided for a large mixed use development in  
42 the Eastern Rail Yards (“ERY”) between Tenth and Eleventh Avenues, West 30<sup>th</sup> to West 34<sup>th</sup> Streets  
43 and designated certain subareas. A cultural facility with 2 FAR was identified for a site in the southern  
44 portion of Subarea A1. Based on responses to a 2007 request for proposals, a developer – the New York  
45 City Department of Cultural Affairs -- was designated by the MTA for this community facility, known

46 as the Culture Shed. The building would have a floor area of 100,000 square feet, and would be located  
47 on a site between West 30<sup>th</sup> and West 31<sup>st</sup> Streets, between Tenth and Eleventh Avenues.  
48

49 Related Company, the designated developer for ERY, is proceeding with construction of the 47-story  
50 South Office Tower at the corner of West 30<sup>th</sup> and Tenth Avenues to the east of the Culture Shed site.  
51 Occupancy is expected in 2015. The 80-story North Tower (Tower A) at West 33<sup>rd</sup> Street and Tenth  
52 Avenue is expected to be completed in 2018. The Culture Shed is to be adjacent to, and would utilize  
53 space in, the 72-story residential Tower D at West 30<sup>th</sup> Street and Eleventh Avenue. The ERY site also  
54 includes a 60-story residential building (Tower E) at West 33<sup>rd</sup> Street and Eleventh Avenue, retail  
55 buildings and a centrally-located publicly accessible square and streets.  
56

57 The Culture Shed is to provide space for to accommodate a wide range of arts and cultural activities  
58 such as theatre, music, dance, visual art and design. It includes:  
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- 60 • The “Culture Shed Building,” a fixed building located to the east of, and partially within, Tower  
61 D
- 62 • The “Shed Portion, ” a deployable extension normally covering the Culture Shed Building; and
- 63 • The “Culture Facility Plaza”, the approximately 20,000-square foot outdoor space immediately  
64 to the east of the Culture Shed Building and covered by the Shed Portion when it is deployed.  
65

66 The programming of the Culture Shed currently is estimated to consist of approximately:  
67

- 68 • 50%: performing arts events and exhibits, ticketed, at a moderate rate, and open to the public
- 69 • 33%: public and community as free or low cost events such as concerts, dance programs,  
70 markets and films
- 71 • 17%: special events like Fashion Week; 12 times a year closed for private events. The revenues  
72 from these events are to support the other activities.  
73

74 The Culture Facility Plaza would be counted as part of the required ERY public access areas. Public  
75 access areas for Subarea A1 must occupy at least 55 percent of Subarea A1 lot area with at least 40  
76 percent of the lot area publicly accessible and open to the sky. A 2012 Eastern Rail Yards Zoning text  
77 amendment did not affect these open space requirements.  
78

## 79 **Requested Actions**

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81 The following amendments to the Zoning Resolution are proposed to facilitate the Culture Shed:

- 82 1. Establish a definition for the Culture Shed that would permit the facilities activities and allow  
83 them to be treated as community facility uses or uses in Use Groups 3 and 4.
- 84 2. Modify sign regulations to allow signs on three sides of the Culture Shed, with a maximum total  
85 surface area of 2,700 square feet, with not more than 200 square feet facing the outdoor plaza or  
86 the connection to the High Line.
- 87 3. Revise the existing text for the location of the building so it may abut, and include support space  
88 within Tower D.
- 89 4. Allow certain portions of the Culture Shed to be excluded from the calculation of floor area.
- 90 5. If Tower D includes floor area for the Culture Shed, remove the requirement that it have retail  
91 continuity facing the outdoor plaza.

- 92 6. Consider the Culture Facility Plaza to be public open space and open to the sky, meeting the  
93 Hudson Yards public open space requirements even though the plaza would at times be covered  
94 by the deployed shed.  
95 7. Reduce the width of the “connection to the High Line” from 80 feet to a minimum of 60 feet to  
96 accommodate the new plaza.  
97 8. Permit portions of the central outdoor plaza to the north of the Culture Facility Plaza to be used  
98 for Culture Shed events in the Culture Facility Plaza and to be subject to time-ticketed access for  
99 such events, and to allow roadways within the central plaza to be temporarily closed to vehicular  
100 traffic during such events.  
101 9. Require that the Culture Facility Plaza be constructed prior to a TCO for the Culture Shed Plaza,  
102 and clarify that the construction of the plaza is not a condition to a building permit or C of O for  
103 any building other than the cultural facility.  
104 10. Allow the Culture Facility Plaza and portions of the central plaza to be closed to the public up to  
105 12 days each year in connection with Culture Shed events.  
106 11. Permit the use of space with Tower D to provide storage, restrooms, maintenance facilities or  
107 other support space for the High Line by excluding the floor space of such support facilities from  
108 the definition of floor area.  
109

#### 110 **CB4 Recommendations**

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112 CB4 looks forward to the Culture Shed as a significant new cultural facility for the City of New York.  
113 By providing a flexible, “brand-neutral” setting, the facility could provide space for a wide range of  
114 creative organizations, both non-profit and profit-making. The Board supports much of the proposed text  
115 amendment but has serious concerns about the loss of publicly-accessible open space, event  
116 programming and use of public open space, and the definition of the Culture Shed. In addition, a number  
117 of other issues need to be addressed. CB4 also takes the opportunity at this point in time to repeat its  
118 recommendations for several Hudson Yards text corrections and revisions not related to the Culture  
119 Shed application.  
120

#### 121 ***Loss of Publicly-accessible Open Space***

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123 CD 4 has a dearth of publicly-accessible open spaces; it is ranked 57 out of 59 community districts for  
124 such spaces. The new, very dense development in Hudson Yards could result in over 13 million square  
125 feet of commercial and residential development, increasing the demand for publicly-accessible open  
126 space. For these reasons, the Hudson Yards zoning required a specific amount of publicly-accessible  
127 open space.  
128

#### 129 ***Culture Facility Plaza***

130 There are two problems with the proposed Culture Facility Plaza: it will not be open to the sky at all  
131 times, and it will not be publicly accessible at all times. It therefore does not meet the definition of  
132 Section ZR 93-71 which, regarding Public Access Areas in the Eastern Rail Yard Subarea A1, states “At  
133 least 40 percent of the lot area of the zoning lot shall be publicly accessible and open to the sky.”  
134 However, the proposed text amendment would state that the Culture Facility Plaza “shall be deemed  
135 publicly accessible and open to the sky at all times, including any time when a moveable portion  
136 “extends over the Culture Facility Plaza.” Thus when the extension is deployed, the plaza covered and

137 perhaps closed to the public, it will be deemed to be both open to the sky and publicly accessible. The  
138 current proposal includes no restriction for the number of days that the plaza could be covered.  
139

140 According to the application, the Culture Facility Plaza is proposed be closed to the public up to 12 days  
141 each year in connection with Culture Shed events. Also there are to be ticketed events which would also  
142 limit public access to the plaza. In addition, representatives for the applicant stated at the March 18,  
143 2013 CB4 joint committees meeting that it is anticipated that Fashion Week activities would require the  
144 Culture Facility Plaza to be closed to the public for two 14-day periods and would include one or two  
145 days for set-up and break-down for each period, resulting in a possible closure to the public of at least 30  
146 days per year. The anticipated private use of the plaza does not meet the definition of publicly-  
147 accessible. This is unacceptable to CB4.  
148

#### 149 *Central Public Square and Streets*

150 The applicant proposes to have portions of the central outdoor plaza to the north of the Culture Facility  
151 Plaza to be used for Culture Shed events that take place in the Culture Facility Plaza, to be subject to  
152 time-ticketed access for such events, and to allow roadways within the central public square to be  
153 temporarily closed to vehicular traffic during such events. CB4 strenuously objects to the closing of the  
154 central public square and streets for private and/or time-ticketed events. The square and streets are  
155 required in the 2005 Hudson Yards zoning text to be open all times. Because the roadway is one way, its  
156 closure will result in all traffic being stopped in ERY. CB4 does not accept the applicant's claim that the  
157 loss of public access to the Culture Facility Plaza and to part of the central public square and streets is  
158 justified by the cultural benefits that the Culture Shed will provide to the local community.  
159

160 CB4 recommends denial of the Culture Shed proposal unless the City provides approximately 20,000  
161 square feet of publicly accessible park space in another location in CD 4 to make up for the loss of  
162 public access and openness to the sky on the 20,000-square foot proposed Culture Facility Plaza, and  
163 that there be no encroachment for Culture Shed uses on the public square and streets to the north of the  
164 Culture Facility Plaza.  
165

#### 166 *Other Open Space Recommendations*

- 167 • The deployment of the Culture Shed extension over the Culture Facility Plaza should primarily  
168 take place during the winter months (November through March) because the public use and  
169 enjoyment of the plaza is most likely during spring, summer and fall.
- 170 • The number of days that the Culture Facility Plaza could be closed to the public should be  
171 limited to 6 days and should primarily be in the winter.  
172

#### 173 *Event Programming and Open Space Planning*

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175 CB4 has two concerns about the decision-making for the Culture Shed activities. First there is a concern  
176 that the organization(s) that makes policy for the Culture Shed events have adequate representation from  
177 the local community, including CB4 members, and that small, local non-profit arts groups, particularly  
178 theaters, be given access to space for free or at a meaningful discount. We recommend that a  
179 representative from CB4 be given a seat on any decision making board for Culture Shed programming.  
180

181 To ensure broad community access to Culture Shed activities and space, CB 4 recommends:

- 182 • That a minimum of 80% of events (regardless of their type) be open to the public

- 183 • That for those major events that occupy the Culture Shed for more than three months, either the  
184 entire event or a meaningful portion of it be open to the public at no charge.
- 185 • That for private events that occupy the Culture Shed for longer than two weeks, interested non-  
186 paying people should have some type of access. For example, Fashion Week could accommodate  
187 backstage visits.
- 188 • That children’s programming be included in the Culture Shed’s activities. Such programming  
189 would enliven the site during the day.

190  
191 Secondly, CB4 is concerned about the overall use of *all* the public space in ERY: the central outdoor  
192 public square, the Culture Facility Plaza to the south, and the Hudson Yards Park and Boulevard to the  
193 north. To the average user in the future there will be no recognition that these three areas are separately  
194 run by the Culture Shed, Inc., Related Cos., and the Hudson Yards BID. There is a risk that these spaces  
195 could end up being run in contradictory and self-defeating ways. In addition, given the grand scale of  
196 these areas, the community needs to be involved in the decision making process on the use of them.

197  
198 CB 4 recommends the creation of an “Open Space Advisory Board” modeled after the Open Space  
199 Advisory Board in the Western Rail Yards which is to advise Related Co. with regard to the  
200 programming of events in the open space. In this case, a board could be comprised of eleven members;  
201 six appointed by Related and one each from the Culture Shed, Hudson Yards BID, CB4, the local  
202 Councilmember, and the Department of Parks and Recreation Commissioner. The Board would meet  
203 quarterly and at the written request of a majority of the Board asks in writing. Use of the space for more  
204 than four hours a day or eight hours in any seven day period would need approval from the majority of  
205 the Board. An Open Space Advisory Board could also deal with noise issues arising from outdoor  
206 events. There should be an evaluation of the event programming and open space use after six months to  
207 assess community concerns.

### 208 209 ***Definition of Culture Shed***

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211 The proposed amendment states that: “An ‘ERY Culture, Festival and Exhibit Facility’ is a use that  
212 comprises changing, non-permanent exhibits, events, expositions, presentations, festivals and fairs  
213 related to any or all of the following: visual arts, performing arts, culinary arts, literature, journalism,  
214 broadcasting, crafts, technology, fashion and design, or any similar activity.” CB4 is concerned that this  
215 definition is so broad that it could include many activities that the current applicant does not intend but  
216 that future decision-makers might promote. CB4 does not want to see the Culture Shed turned into an  
217 extension of the Javits Center, hosting trade shows such as car and boat shows.

218  
219 CB4 recommends that the catchall phrase at the end of the definition – “or any similar activity” – be  
220 excised from the proposed amendment. CB4 also would like language in the text that states that Use  
221 Groups 3 and 4 uses are not included in the proposed Culture Shed definition. Ironically, although the  
222 proposed definition is very broad, some uses as depicted by the applicant such as a farmers market are  
223 not included in the facility definition.

### 224 225 ***Public Access to Ground Floor Space in Tower D***

226  
227 CB4 is concerned that the Culture Shed spaces, particularly the bathrooms, located in the ground floor  
228 lobby in Tower D should be publicly accessible at all times when the building is open. It is very

229 important that the bathrooms remain open especially for people who use the High Line. The only High  
230 Line bathrooms available to High Line users are at West 16<sup>th</sup> Street, one mile away from West 30<sup>th</sup>  
231 Street. The applicant has said that the bathrooms in the ground floor lobby would not be closed to the  
232 public. CB4 would like to confirm this and to clarify which spaces would be closed to the public for  
233 special events such as Fashion Week.

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### 235 ***High Line Support Space in Culture Shed/Tower D***

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237 CB4 supports the Friends of the High Line request that the proposed zoning text be revised to “require,”  
238 not just “support” space for the High Line in the Culture Shed portion of Tower D. The High Line needs  
239 approximately 2,500 square feet for public bathrooms, equipment storage, a trash room, and two small  
240 office rooms.

241

242 The Culture Shed proposal includes the reduction of the width of the defined connection to the High  
243 Line from 80 feet to a minimum of 60 feet to accommodate the Culture Facility Plaza. We understand  
244 that Friends of the High Line are comfortable with this proposed change.

245

### 246 ***Other CB4 Recommendations and Requested Clarifications***

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248 • The proposed text change states: “Any sign that exceeds 300 square feet of surface area shall be  
249 non-illuminated or a “sign with indirect illumination.” CB4 is concerned about the time that  
250 illuminated signs would be permitted because there have been many complaints from residents in  
251 CD 4 about intrusive sign illumination at night. CB4 recommends that the lights on signs go off  
252 at 1:00 a.m., the time the streets close as per zoning regulations.

253

254 • CB4 requests a timeline with critical milestones in order to better understand the relationship  
255 between the construction of the Culture Shed and the construction of other key buildings and  
256 features in ERY. For example,  
257 - Is the Culture Shed construction start dependent on an anchor tenant being secured for the  
258 North Office Tower (Tower A) at Tenth Avenue and West 33<sup>rd</sup> Street?  
259 - Is the Culture Shed construction start dependent on the construction start of Tower D? Tower  
260 D and the Culture Shed are partly on terra firma and partly on a platform which we’ve been  
261 told will take approximately two years to construct.

262

263 • To prevent the construction of half a building, CB4 recommends that:  
264 - At least 40% of the total expected cost of the construction of the Culture Shed should be  
265 raised and in the bank before construction may commence.  
266 - Once construction commences it shall be continuous until the Culture Shed is complete.

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268 • CB4 recommends that the “Culture Shed Developer” be a non-profit organization, and has been  
269 informed that the “Culture Shed, Inc.” is this entity.

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### 271 **CB4 Approval of Selected Proposed Amendments:**

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273 • Revise the existing text for the location of the building so it may abut, and include support space  
274 within Tower D.

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- Allow certain portions of the Culture Shed to be excluded from the definition of floor area.
- If Tower D includes floor area for the Culture Shed, it is not required to have retail continuity facing the outdoor plaza.
- Reduce the width of the “connection to the High Line” from 80 feet to a minimum of 60 feet to accommodate the new plaza.
- Require that the Culture Shed Plaza be constructed prior to a TCO for the Culture Shed Plaza. Clarify that the construction of the plaza is not a condition to a building permit or C of O for any building other than the cultural facility.
- Facilitate the use of space with Tower D to provide storage, restrooms, maintenance facilities or other support space for the High Line by excluding the floor space of such support facilities from the definition of floor area.

**CB4’s Recommended Follow-up Hudson Yard Amendments** (not related to the Culture Shed application)

*[Further text to be supplied; list below is just a place-holder.]*

1. Hell’s Kitchen Subarea D: change C1 to R8A – no hotels
2. W. 35<sup>th</sup> to W. 41<sup>st</sup> Streets: mid-block C2-5 overlay should be removed
3. Midblock commercial
4. Site on W. 40<sup>th</sup> and 41<sup>st</sup> Streets: last IH site – 155 units of affordable housing.

**Summary of CB4 Recommendations**

CB4 is enthusiastic about the Culture Shed promise to bring a diversity of cultural activities to CD4. The Board supports much of the proposed text amendment but recommends denial of the proposal unless:

1. The City provides 20,000 square feet of publicly accessible park space in another location to make up for the loss of public access and openness to the sky on the 20,000-square foot proposed Culture Facility Plaza.
2. There is no encroachment for Culture Shed uses on the ERY central public square and streets to the north of the Culture Facility Plaza.
3. The number of days that the Culture Facility Plaza would be closed to the public be limited to 6 days, primarily in the winter.
4. CB4 be given a seat on any decision-making board for Culture Shed programming.
5. An Open Space Advisory Board is formed.
6. A minimum of 80% of events (regardless of their type) be open to the public.
7. For those major events that occupy the Culture Shed for more than three months: either the entire event or a meaningful portion of it be open to the public at no charge.
8. For private events that occupy the Culture Shed for longer than two weeks: interested community residents should have some type of access.
9. Children’s programming is included in the Culture Shed’s activities.

- 321 10. The catchall phrase at the end of the definition – “or any similar activity” – be excised.  
322 11. Confirm that the bathrooms in the ground floor lobby in Tower D would not be closed to the  
323 public.  
324 12. “Require,” not just “support” space for the High Line in the Culture Shed portion of Tower D.  
325 13. The lights on signs go off at 1:00 a.m.  
326 14. A timeline with critical milestones for the construction of the Culture Shed and the construction  
327 of other key buildings and features in ERY is prepared.  
328 15. At least 40% of the total expected cost of the construction of the Culture Shed be raised before  
329 construction starts. Once construction commences it shall be continuous until the Culture Shed is  
330 complete.  
331 16. Confirm that “Culture Shed, Inc.” is a non-profit developer.  
332

333 Sincerely,  
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336 Corey Johnson, Chair  
337 Manhattan Community Board 4  
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339 Jean-Daniel Noland, Chair  
340 Clinton/Hell’s Kitchen Land Use and Zoning Committee  
341

342 J. Lee Compton, Co-Chair                      Betty Mackintosh, Co-Chair  
343 Chelsea Land Use Committee                  Chelsea Land Use Committee