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Agenda Date: 1/28/2021  
Council Meeting

2021 JAN 28 A 10:59

CITY OF FRESNO  
CITY CLERK'S OFFICE

# FRESNO CITY COUNCIL



## Information Packet

### ITEM(S)

#### **File ID 21-204 (5-F)**

CONFERENCE WITH REAL PROPERTY NEGOTIATOR -  
Government Code Section 54956.8; Property: 809 E Olive Ave;  
Negotiating Parties: City Manager Thomas Esqueda, Lawrence  
Abbate; Under Negotiation: Terms and Conditions of Property  
Acquisition.

### **Contents of Supplement: Community emails.**

#### **Item(s)**

##### **Supplemental Information:**

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

##### **Americans with Disabilities Act (ADA):**

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

## Marco Martinez-Velasquez

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**From:** Brandi Nuse-Villegas <brandiangela78@gmail.com>  
**Sent:** Wednesday, January 27, 2021 11:54 PM  
**Subject:** Comments regarding the Tower Theatre rezoning discussion

**External Email:** Use caution with links and attachments

Hi! I know you have received many messages regarding the Tower Theatre. I wanted to add some practical thoughts.

Financially, the National Independent Venue Association states that for every \$1 spent for live entertainment, \$12 is spent locally.

The church has said that they will continue regular operations and events at the Tower, including the Reel Pride Festival, as a response to the concerns of potential impact. However, I think it is important to note that even if this were so, if the primary mission and MO of the organization of Adventure Church is not entertainment through the Tower Theatre, they cannot give primary focus to running the Tower Theatre as an entertainment venue, especially compared to someone whose primary purpose for purchasing the tower is as an entertainment venue. There is also no guarantee that there might not be a conflict of interest, in which church members oppose a certain use, even if the leadership is not opposed. I cannot see how running two separate operations with different missions would not be problematic. Nor could the city or community hold the church to this commitment. I have heard that the same thing happened with Cornerstone Church, which, as far as I know, only presents entertainment produced by the church. I believe that the current zoning laws are practical and meant to give priority to the health of the mainstreet and a commercial and cultural area and should remain for that parcel. Thank you.



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## Marco Martinez-Velasquez

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**From:** Jennifer White <whats\_cooking@att.net>  
**Sent:** Thursday, January 28, 2021 7:58 AM  
**To:** Clerk  
**Subject:** Church in the Tower Theater

**External Email:** Use caution with links and attachments

I cannot believe this is even an issue!

The Tower Theater is a historical landmark to the only entertainment area in Fresno. Our restaurants and unique bars and clubs will be negatively affected by a church taking over the very heart of our district!

I am against the area being rezoned to accommodate this church.

I pay property taxes on two properties in the Tower and have resided and supported the events at the Tower Theater and surrounding businesses for over 60 years.

This church needs to find some other building for their services. It is a theater, a very grand and palatial theater. That's what it was built for and that's what it should stay.

[Sent from AT&T Yahoo Mail for iPhone](#)

## Marco Martinez-Velasquez

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**From:** Erika Leonard <ejleonard@me.com>  
**Sent:** Thursday, January 28, 2021 9:11 AM  
**To:** Clerk  
**Subject:** COMMENTS for TODAY'sCity Council Public Comment regarding Tower Theater zoning

**External Email:** Use caution with links and attachments

Hello,

My work obligations prevent me from speaking in today's public comment time, when I would like to express my views regarding the zoning of the Tower Theater property.

Thank you for welcoming emailed comments. My message is below.

Regards,  
Erika Leonard

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To the Fresno City Council:

In regards to the Tower Theater property, I urge you to enforce and to make no changes to the current zoning at this time.

**I deeply appreciate the role that religious institutions play in healthy, strong communities overall - and retaining the prohibition of community and religious assembly uses in excess of 2000 square feet for this property protects our small, local businesses at a time those businesses most need our support.**

My objection would remain if a buyer were a fraternal organization or community center. Permitting such use would be counter to the city's objective of supporting and promoting neighborhood-serving, pedestrian-oriented retail services in the Tower District. This is more than just a stated objective in the Tower plan - it's an economic necessity for our District and our City struggling in this pandemic.

I will object just as strongly to zoning change that would allow the Theater to become LGBTQ Community Center - As much as I personally long for the return of an LGBTQ Community Center in the District, we need neighborhood-serving, pedestrian-oriented retail services. Our existing plan allows for this, and now is not the time to change it.

Also, 'Sensitive Use' designations were created for compelling reasons. Though the pending buyer is a religious institution, my objection would remain if the pending buyer were intending to run a private school or some other group with a sensitive use designation. Making a change that allows this 'sensitive use' would actually be harmful to existing business owners without providing a community benefit or serving a government interest.

For almost a year, our local businesses that still survive have borne the costly, time-consuming brunt of so many unexpected government regulations. The compelling interest is public health. There is no compelling government or community interest justifying zoning changes in this case. It cannot be that the wishes and desires of a single buyer and single seller outweigh the city's compelling interest in promoting business and economic vitality of ANY Fresno District.

Thriving religious institutions play a valuable role in our community. In addition to retaining and enforcing current zoning for the Tower District property, I hope you will provide guidance for this and other religious institutions so they can have spaces to thrive in ways that strengthen their community and our city as a whole.

With appreciation for your leadership,  
Erika Leonard

## Marco Martinez-Velasquez

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**From:** Jaguar Bennett <jaguarbennett@gmail.com>  
**Sent:** Thursday, January 28, 2021 12:23 PM  
**To:** Clerk; Jerry Dyer; Esmeralda Soria; Mike Karbassi; Miguel Arias; Tyler Maxwell; Luis Chavez; Garry Bredefeld; Nelson Esparza  
**Subject:** Addition to public comment: Impact of Tower Theatre sale on arts organizations

**External Email:** Use caution with links and attachments

Dear Mayor Dyer, City Council Members, and City Clerk Yvonne Spence:

I was hoping to make some comment at the City Council Meeting of 1/28/21 to express the views of Fresno's arts community on the sale of the Tower Theatre. I am emailing you my comments here, and I hope they can be entered into the record and considered by the council.

I'm Jaguar Bennett, I'm the President of the Board of Directors of the Rogue Festival, I'm a Tower District resident, and I'd like to address how the sale of the Tower Theatre will affect arts nonprofits and the arts community.

Many arts organizations use the Tower Theatre: the Rogue Festival, Reel Pride LGBTQ Film Festival, Fresno Filmworks, Swede Fest, the Lively Arts Foundation, the California Opera Association, and many others.

All these groups will suffer if we lose access to the Tower Theatre. The film festivals will lose their only practical venue. For live performance, Tower is the only publicly available large venue within the budget of small organizations.

The church says they will host shows, but that is not a legally binding commitment. We are concerned that they might favor religious presentations — the church has just announced that their first concert, on February 3, will be a Christian rock band.

We have no guarantee that the church will grant equal access to all arts organizations. I don't think it is unreasonable to be skeptical of a church's long-term enthusiasm about hosting a gay film festival. Rogue Festival's mission is to present original, cutting edge performance without censorship. Our artists are often bawdy, irreverent, shocking, and inappropriate for a church.

We in the arts community work to present serious art, and serious art can be dark, disturbing, and on adult themes. Serious art is not always uplifting, family friendly, or consistent with a church's values. We need equal access to a venue to present serious adult works, and the Tower Theatre has traditionally served as an equal opportunity venue.

If arts organizations cannot access the Tower Theatre, we will be forced into smaller venues, reducing our audiences, our capacity for fundraising, and our long-term viability.

We may be forced to operate at venues outside the Tower District, and that will cut us off from each other, the arts community we've built in the Tower, and the mutually beneficial symbiosis we have with Tower businesses.

The arts organizations and the Tower businesses share the same customer base and help each other. We bring in audiences that eat and drink at Tower nightspots; and they provide the nightlife that makes people come out for the arts. It is no fun seeing a show if you can't have dinner and drinks nearby. If we have to perform in distant, isolated venues far away from restaurants and bars, our audience numbers will fall. And any zoning change in the Tower that may reduce nightlife in the future will also make our audience numbers fall.

The loss of the Tower Theatre will be seen as a historic failure of an American city to protect its historical landmarks. The Tower Theatre nurtures the one thriving arts community between San Francisco and Los Angeles. Fresnoans seldom realize that Fresno has a more vigorous and exciting arts scene than most cities of the same size, and the Tower Theatre is the heart of it. The sale of the Tower Theatre will devastate our arts community, which will be a loss for all of Fresno.

I deeply appreciate the efforts of Mayor Dyer and the City Council to craft a compromise acceptable to all parties involved in the issue. I thank you all for your work to protect the historic heritage of the Tower Theatre.

Thank you,

Jaguar Bennett

Board President, Rogue Festival

750 E. Hedges Ave. Apt. 2

Fresno, CA 93728

(559) 355-9154



**Bernard Canez**

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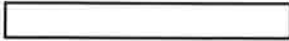
**From:** [noreply@granicusideas.com](mailto:noreply@granicusideas.com) <noreply@granicusideas.com>

**Sent:** Thursday, January 28, 2021 9:00 AM

**To:** Yvonne Spence <[Yvonne.Spence@fresno.gov](mailto:Yvonne.Spence@fresno.gov)>; Briana Parra <[Briana.Parra@fresno.gov](mailto:Briana.Parra@fresno.gov)>

**Subject:** New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

**External Email:** Use caution with links and attachments



## New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

Brina Harwood submitted a new eComment.

Meeting: City Council on 2021-01-28 9:00 AM - Regular Meeting

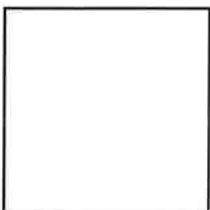
Item: 5-F ID 21-204 CONFERENCE WITH REAL PROPERTY NEGOTIATOR - Government Code Section 54956.8; Property: 809 E Olive Ave; Negotiating Parties: City Manager Thomas Esqueda, Lawrence Abbate; Under Negotiation: Terms and Conditions of Property Acquisition.

eComment: I am shocked and saddened by the way the City of Fresno has handled this issue. This sale of this property is at the end of escrow and now the City is making an effort to interrupt the private sale of private property through the misuse and abuse of its power. The church has agreed to maintain the use of the facility as it has been, going so far as to agree to recording a covenant to that effect. There will be no change. This is an issue with the church, not the use.

[View and Analyze eComments](#)

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**Bernard Canez**

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**From:** noreply@granicusideas.com <noreply@granicusideas.com>

**Sent:** Thursday, January 28, 2021 9:00 AM

**To:** Yvonne Spence <Yvonne.Spence@fresno.gov>; Briana Parra <Briana.Parra@fresno.gov>

**Subject:** New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

**External Email:** Use caution with links and attachments

## New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

Matthew Mendez submitted a new eComment.

Meeting: City Council on 2021-01-28 9:00 AM - Regular Meeting

Item: 5-F ID 21-204 CONFERENCE WITH REAL PROPERTY NEGOTIATOR - Government Code Section 54956.8; Property: 809 E Olive Ave; Negotiating Parties: City Manager Thomas Esqueda, Lawrence Abbate; Under Negotiation: Terms and Conditions of Property Acquisition.

eComment: This church and ANY church has a right to gather at this theatre. You are discriminating against a churches right to worship. If they pay rent like any other artist of company that wants to use the theatre, then they have a right to use it. If the owner wants to sell it to them, it's™ his right to. If it is not being rezoned to a place of worship, then doesn't™ need to be rezoned! It will remain a theatre under new management.

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**Bernard Canez**

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**From:** noreply@granicusideas.com <noreply@granicusideas.com>

**Sent:** Thursday, January 28, 2021 8:59 AM

**To:** Yvonne Spence <Yvonne.Spence@fresno.gov>; Briana Parra <Briana.Parra@fresno.gov>

**Subject:** New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

**External Email:** Use caution with links and attachments



## New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

Desirae Gomez submitted a new eComment.

Meeting: City Council on 2021-01-28 9:00 AM - Regular Meeting

Item: 5-F ID 21-204 CONFERENCE WITH REAL PROPERTY NEGOTIATOR - Government Code Section 54956.8; Property: 809 E Olive Ave; Negotiating Parties: City Manager Thomas Esqueda, Lawrence Abbate; Under Negotiation: Terms and Conditions of Property Acquisition.

eComment: The church does not intend to rezone. Re: Tower Theatre

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**Bernard Canez**

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**From:** noreply@granicusideas.com <noreply@granicusideas.com>

**Sent:** Thursday, January 28, 2021 8:57 AM

**To:** Yvonne Spence <Yvonne.Spence@fresno.gov>; Briana Parra <Briana.Parra@fresno.gov>

**Subject:** New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

**External Email:** Use caution with links and attachments



## New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

Bethany ChongGum submitted a new eComment.

Meeting: City Council on 2021-01-28 9:00 AM - Regular Meeting

Item: 5-F ID 21-204 CONFERENCE WITH REAL PROPERTY NEGOTIATOR - Government Code Section 54956.8; Property: 809 E Olive Ave; Negotiating Parties: City Manager Thomas Esqueda, Lawrence Abbate; Under Negotiation: Terms and Conditions of Property Acquisition.

eComment: I don't understand what authority the city has to take over a private sale of the theater. In addition, the council members of the district were notably one sided on the town hall meeting hosted by the tower and I do not believe they can be neutral in the matter

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**Bernard Canez**

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**From:** noreply@granicusideas.com <noreply@granicusideas.com>

**Sent:** Thursday, January 28, 2021 8:56 AM

**To:** Yvonne Spence <Yvonne.Spence@fresno.gov>; Briana Parra <Briana.Parra@fresno.gov>

**Subject:** New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

**External Email:** Use caution with links and attachments

## New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

Chris Williams submitted a new eComment.

Meeting: City Council on 2021-01-28 9:00 AM - Regular Meeting

Item: 5-F ID 21-204 CONFERENCE WITH REAL PROPERTY NEGOTIATOR - Government Code Section 54956.8; Property: 809 E Olive Ave; Negotiating Parties: City Manager Thomas Esqueda, Lawrence Abbate; Under Negotiation: Terms and Conditions of Property Acquisition.

eComment: There is no attempt by the church to rezone. There does not need to be a rezone to allow the church to function incidentally on Sunday mornings. If anything, maybe a variance or special amendment to that specific property. I called the local Alcohol Beverage Control and they CONFIRMED the church operating in the Theatre Sunday mornings would NOT effect surrounding licenses. I am in full support of the church purchasing the theatre and operating incidentally on Sunday mornings and occasional events.

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**Bernard Canez**

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**From:** noreply@granicusideas.com <noreply@granicusideas.com>

**Sent:** Thursday, January 28, 2021 8:51 AM

**To:** Yvonne Spence <Yvonne.Spence@fresno.gov>; Briana Parra <Briana.Parra@fresno.gov>

**Subject:** New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

**External Email:** Use caution with links and attachments



## New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

nicole knod submitted a new eComment.

Meeting: City Council on 2021-01-28 9:00 AM - Regular Meeting

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eComment: I am strongly opposed to any rezoning of the Tower District commercial retail zone. As a homeowner, one of the reasons I decided to invest in a home in the Tower area was because of the zoning. The current zoning made me feel confident that my property will stay valuable because of the amenities that come with a commercial main street. I am deeply concerned that if Adventure church purchases the theater and forces a rezone that the surrounding businesses will be negatively impacted, and it will decrease the value of my home and the desirability to live in the area. Honestly, I would not have purchased my home if I knew that the zoning would change so drastically. If I wanted to live near a sensitive use zone I would have bought a home in the Willow and Nees area.

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**Bernard Canez**

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**From:** noreply@granicusideas.com <noreply@granicusideas.com>

**Sent:** Wednesday, January 27, 2021 11:33 PM

**To:** Yvonne Spence <Yvonne.Spence@fresno.gov>; Briana Parra <Briana.Parra@fresno.gov>

**Subject:** New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

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## New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

Michael Reyna submitted a new eComment.

Meeting: City Council on 2021-01-28 9:00 AM - Regular Meeting

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eComment: Any rezoning that limits the operations and conditional use permits of any bars, clubs, restaurants, and other nightlife businesses will be economically damaging to our district. The Tower District depends on these businesses as its economic core and they provide employment for many local district residents.

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**Bernard Canez**

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**From:** noreply@granicusideas.com <noreply@granicusideas.com>

**Sent:** Tuesday, January 26, 2021 9:46 AM

**To:** Yvonne Spence <Yvonne.Spence@fresno.gov>; Briana Parra <Briana.Parra@fresno.gov>

**Subject:** New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

**External Email: Use caution with links and attachments**

## New eComment for City Council on 2021-01-28 9:00 AM - Regular Meeting

Dan Waterhouse submitted a new eComment.

Meeting: City Council on 2021-01-28 9:00 AM - Regular Meeting

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eComment: I support the City purchasing the Tower Theatre if at all possible. A perusal of state law reveals there is no mandatory spacing required for liquor licenses from churches. This means to protect the property interests of other businesses on Olive the City's rules would have to be modified or repealed in order for the City to avoid inverse condemnation lawsuits if the church is allowed to operate in the heart of the Tower District. I realize any planning entitlements are off in the future but this should be considered by councilmembers as they discuss this topic.

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