

## Jim Hinderaker

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**From:** Megan Mahan  
**Sent:** Friday, November 04, 2016 11:40 AM  
**To:** Greg Giessner; Jeff Wooldridge  
**Cc:** City Manager Office; Jim Hinderaker; Bill Crolley; Don Postell; Steve Alcorn  
**Subject:** Talking points on charter schools

Councilmembers Giessner and Wooldridge,

In the email sent by Rosemary Reed, she cited GA-0697. In this opinion, the Attorney General stated that a home rule city may enforce reasonable land development regulations against a school district for aesthetics and maintenance of property values. It did not say that we could outright deny the schools the ability to build in our City.

The City is currently enforcing reasonable development regulations against the charter schools, and they are complying with our regulations:

- There were significant changes made to their initial traffic plan to attempt to achieve a goal of keeping all of the traffic, including a queue of parents for pickup, on the property, and not to use the surrounding streets as a waiting or loading zone.
- The City did require traffic impact studies, and they have been reviewed by the relevant City departments.

**As long as charter schools follow our regulations, we cannot prevent them from coming into our communities.** This is based on the following case law:

- The Supreme Court of Texas has at least twice ruled in separate cases that a City may not use its zoning laws to prohibit the location of schools, or appropriate school facilities within any particular zoning district. In both cases, the proposed school facility was to be placed in residential areas.
- The first case was *Austin Independent School District v. City of Sunset Valley*, 502 SW2d 670 (Tx. 1973), and the same issue came up in *City of Addison, Texas v. Dallas Independent School District*, 632 SW2d 771 (Tex. 1982). The Court in both cases states that the power of an independent school district to place its schools overruled the City's ability to zone.
- The Supreme Court of Texas has also ruled, in *LTTS Charter School, Inc., dba Universal Academy v. C2 Construction, Inc.*, 342 SW3d 73 (Tex. 2011) that an open-enrollment non-profit private charter school is considered a governmental unit.

Denying Harmony's site plan could result in litigation and we could lose. Further, City Council members could also be personally sued and could be held personally liable in this type of action. A site plan review is different than a zoning or rezoning request. Generally the site plan review is like a plat review, and if the plan meets all of the City's requirements, the reviewing body must approve it.

When speaking with concerned citizens, you may also want to point out that the residential areas near the schools do not have homes that front the streets by the school, so there should not be cars waiting in lines in front of any homes.

I am copying Bill Crolley and Jim Hinderaker on this email so that they may include any additional information that you might find helpful.

Please let me know if you have any questions.

Thank you,

**Megan Mahan**

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