

City Council
Agenda Memo



City Council
Meeting Date: 1/23/2014

TO: Larry D. Gilley, City Manager

FROM: Jon James, AICP
Director of Planning and Development Services

SUBJECT: Final reading and public hearing on an ordinance for Case No. CUP-2014-01, a request from Amber Massey for a Conditional Use Permit to allow for Day Care Operation - Home-Based on property zoned RS-6 (Single-Family Residential), located at 3274 White Wing Way.

GENERAL INFORMATION

Currently the property is zoned RS-6 and has been developed with a home. The adjacent properties are developed as part of a large subdivision with similar homes. The homeowner currently runs a home-based day care at the home. The current regulations for home-based day cares limit the number of children receiving care to 6. However, with approval of a Conditional Use Permit, the number of children can be increased to more than 6 under the regulations provided by state law up to a maximum of 12 children. The request is to allow for a 'Day Care Operation - Home-Based' to allow for the home-based day care to care for more than 6 children. No changes to the home are needed/requested by the applicant.

The Future Land Use section of the Comprehensive Plan designates this general area for low density residential uses. The request would allow for expansion of an existing home-based day care. The Conditional Use Permit request would be compatible with the surrounding uses.

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Bixby, Glenn, Rosenbaum, Todd, Yungblut, and McClarty) and none opposed.

ATTACHMENTS

Ordinance
Staff Report with Maps
Surrounding Property Owner Response

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

January 10, 2014

Item No. 7.5

Disposition by City Council

- Approved Ord/Res#
 Denied _____
 Other

City Secretary

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART B, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart B, "Land Development Code," of the Abilene Municipal Code be amended as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 9th day of January A.D. 2014.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 20th day of December, 2013, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 23rd day of January, 2014, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 23rd day of January, A.D. 2014.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

Approve a Conditional Use Permit for a “Day Care Operation - Home-Based” on property zoned RS-6 (Single-Family Residential).

Location:

3274 White Wing Way

Legal Description:

COUNTRYSIDE SOUTH SEC 1, BLOCK B, LOT 24



With the following conditions:

- none.

-END-

ZONING CASE CUP-2014-01

STAFF REPORT



APPLICANT INFORMATION:

Amber Massey

HEARING DATES:

Planning & Zoning Commission: January 6, 2014

City Council 1st Reading: January 9, 2014

City Council 2nd Reading: January 23, 2014

LOCATION:

3274 White Wing Way

REQUESTED ACTION:

Conditional Use Permit to allow for 'Day Care Operation - Home-Based' on property zoned RS-6



SITE CHARACTERISTICS:

The subject parcel totals approximately 0.22 acres and is currently zoned RS-6 (Single-Family Residential). The property has been developed with a home and is currently running a home-based day care. The adjacent properties have RS-6 zoning to the north, south, east & west.

ZONING HISTORY:

The property was annexed in 1963 and was zoned RS-6 when the neighborhood was developed in the 1970's.

ANALYSIS:

- Current Planning Analysis

Currently the property is zoned RS-6 and has been developed with a home. The adjacent properties are developed as part of a large subdivision with similar homes. The homeowner currently runs a home-based day care at the home. The current regulations for home-based day cares limit the number of children receiving care to 6. However, with approval of a Conditional Use Permit, the number of children can be increased to more than 6 under the regulations provided by state law up to a maximum of 12 children. The request is to allow for a 'Day Care Operation - Home-Based' to allow for the home-based day care to care for more than 6 children. No changes to the home are needed/requested by the applicant.

- Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area for low density residential uses. The request would allow for expansion of an existing home-based day care. The Conditional Use Permit request would be compatible with the surrounding uses.

PLANNING STAFF RECOMMENDATION:

Staff recommends approval as requested.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Bixby, Glenn, Rosenbaum, Todd, Yungblut, and McClarty) and none opposed.

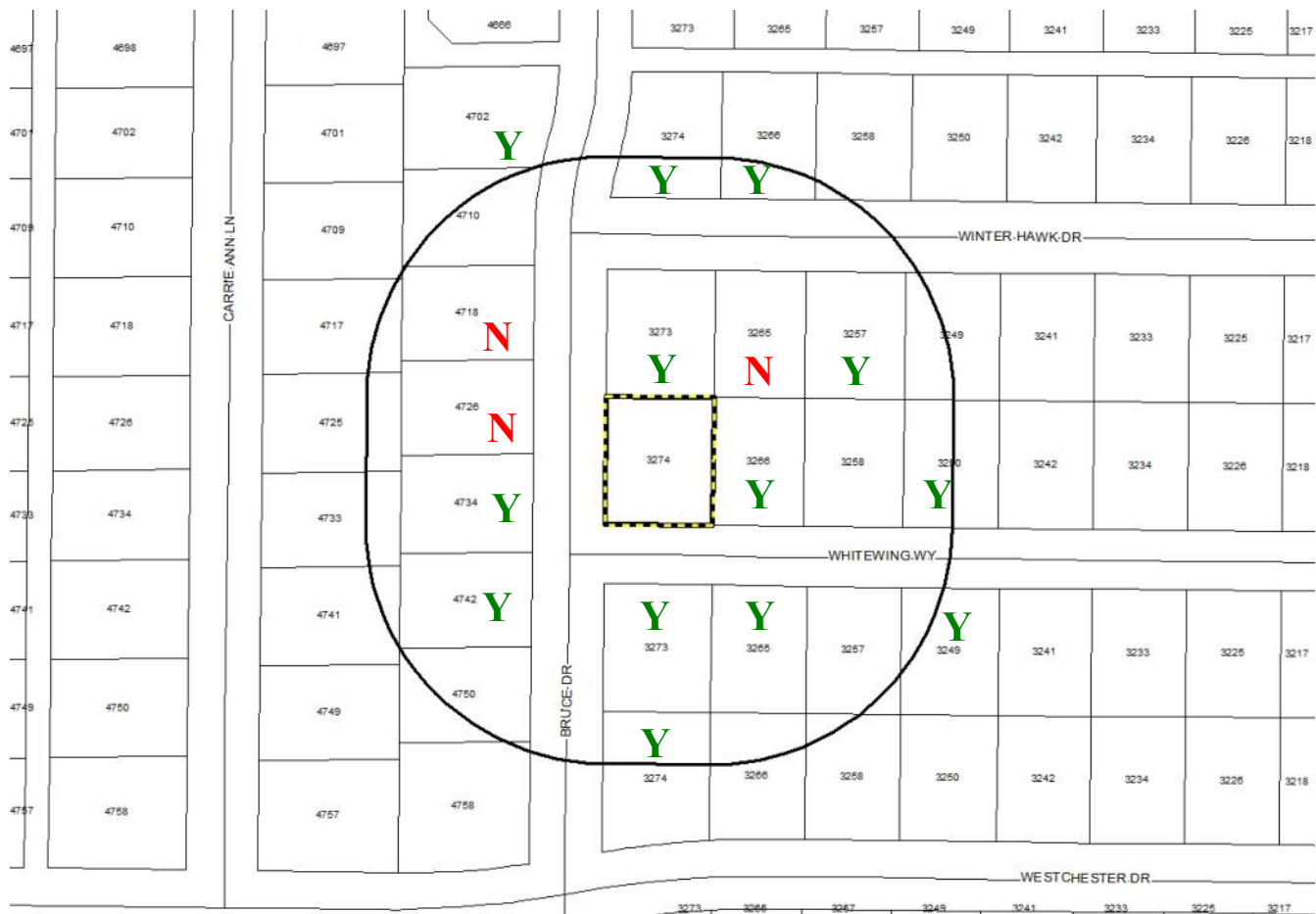
NOTIFICATION:

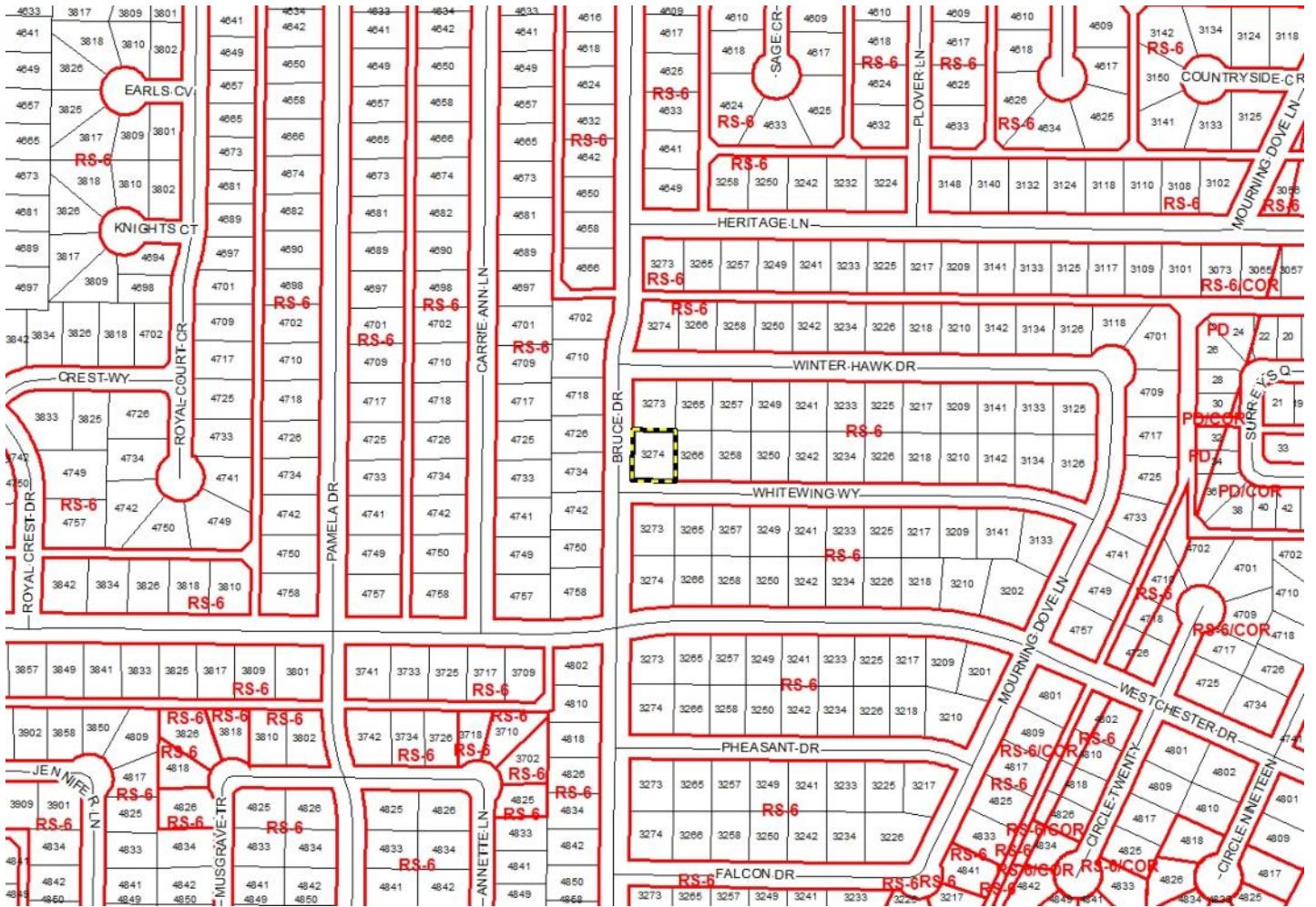
Property owners within a 200-foot radius were notified of the request.

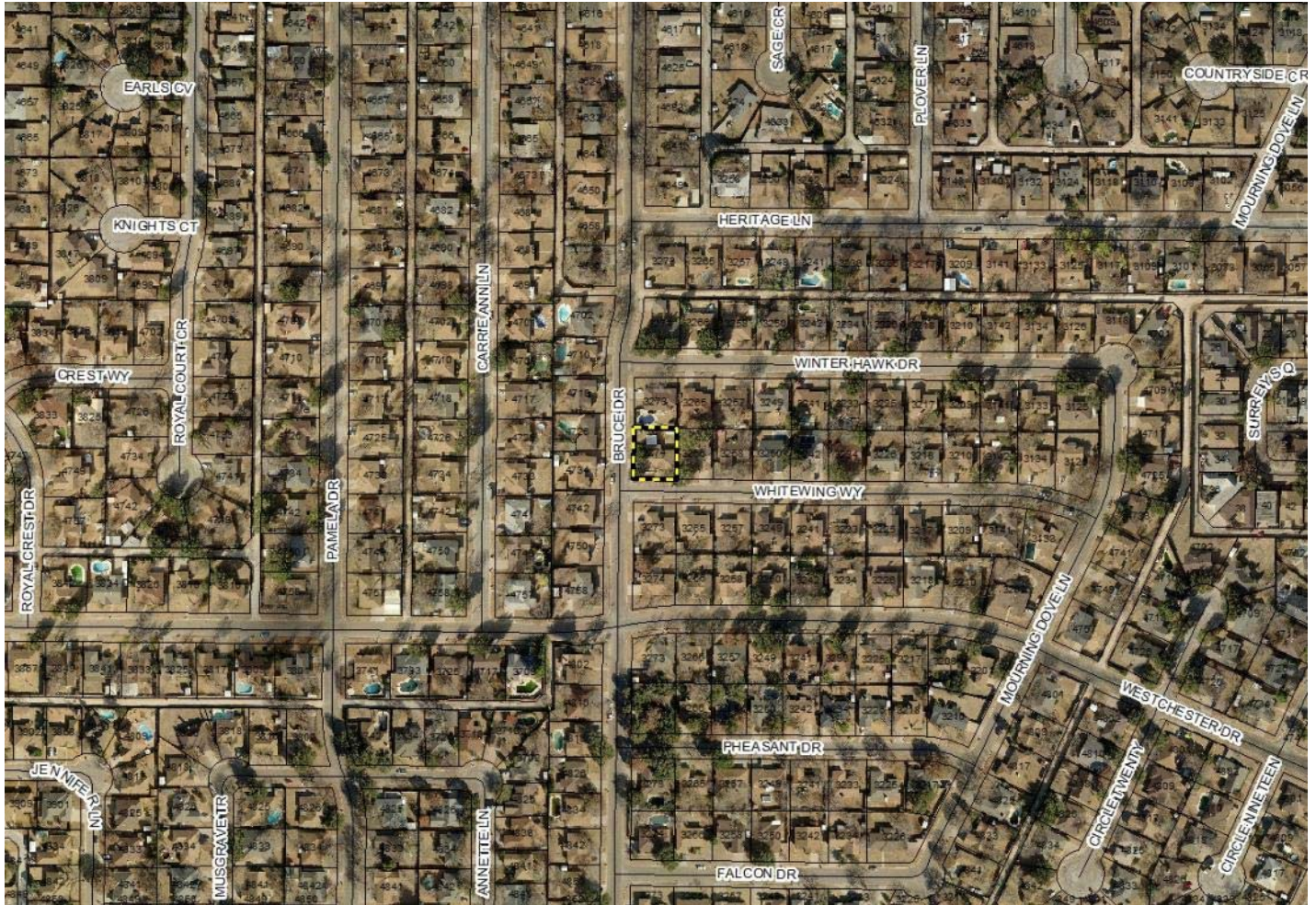
(*Different name on response)

OWNER	ADDRESS	RESPONSE
MAWSON CHARLES ALFRED & KIMBERLEY M	3266 WINTER HAWK DR	In Favor
GOMEZ GLORIA S	3266 WHITEWING WY	In Favor
CORBETT JIM	3249 WHITEWING WY	In Favor*
RUNNELS DAVID CLAY	3274 WINTER HAWK DR	In Favor
ATKINSON PHILIP Z	3257 WHITEWING WY	
HERNANDEZ MARTIN JR & HILLARY E	3273 WHITEWING WY	In Favor
REED CHARLES K	3273 WINTER HAWK DR	In Favor
HINSON JAMES D & JAN M	4733 CARRIE ANN LN	
CASLANI ERNEST & BRIGITTE	4709 CARRIE ANN LN	
WRIGHT RYAN & JACINTA	3258 WINTER HAWK DR	
PEREZ STEPHEN	3250 WHITEWING WY	In Favor
EVERHART EDWIN J & LINDA A	3257 WINTER HAWK DR	In Favor
KIMBALL MARK EDWARD & WRIGHT LAUREN E	3274 WESTCHESTER DR	In Favor
BURNETT MICKEY W	3265 WHITEWING WY	In Favor*
JAQUES PHYLLIS	3265 WINTER HAWK DR	Opposed
DARROW JON A	4758 BRUCE DR	
MILLER DONALD E & ELIGIA M	4725 CARRIE ANN LN	
EVANS ELRAY & MADELINE	4717 CARRIE ANN LN	
SCOUTEN WILLIAM H & MARGARITA A	3258 WHITEWING WY	
PAIGE JUDY	4718 BRUCE DR	Opposed
DUNCAN THOMAS M & SUSAN L	4726 BRUCE DR	Opposed
MILLER BARRY B & BETSY G	4710 BRUCE DR	
RUSS ROBERT & PATRICIA SUE	4742 BRUCE DR	In Favor*
FIKES GARY B & GINGER B	4734 BRUCE DR	In Favor
DANIELS JAMEL & JOANNA M	3258 WESTCHESTER DR	
KLEMAN CRAIG J & DONNA M	3266 WESTCHESTER DR	
MASSEY DUSTIN L & AMBER	3274 WHITEWING WY	
HARTER MARK A & BRENDA G	4750 BRUCE DR	
BEWLEY RYAN SCOTT & ASHLEY MAE	3249 WINTER HAWK DR	
MITCHELL JAMES M & BRENDA JO	4741 CARRIE ANN LN	
WILSON WILLIE MARTHA	4702 BRUCE DR	In Favor

13 in Favor- **Y**
 3 Opposed- **N**











CITY OF
ABILENE

JAQUES PHYLLIS
3265 WINTERHAWK DR
ABILENE TX 79606-3338

NOTICE OF PUBLIC HEARING

RE: Rezoning Application Number CUP-2014-01

12/27/2013

The Planning and Zoning Commission will hold a public hearing on **Monday, January 6, 2014**, at **1:30 PM**, in the City Council Chambers, 2nd Floor, City Hall, N. 5th and Walnut Streets, for the purpose of considering a request from Amber Massey for a Conditional Use Permit to allow for Day Care Operation - Home-Based on property zoned RS-6 (Single-Family Residential), located at 3274 White Wing Way. The purpose is to allow for an existing home-based day care to care for more than 6 children but no more than 12 children as allowed for by Texas state law. No change to the house is proposed.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email or fax as listed below.

The attached map shows the area of the request. Only that area which is shaded or cross-hatched on the map is being requested for rezoning. The solid boundary line around the subject property is only a notification area. If approved by the Planning and Zoning Commission or if denied and appealed to the City Council within the specified ten day period, this case will be heard by the City Council for 2nd and Final Reading with a public hearing on **January 23, 2014** at 8:30 a.m., City Council Chambers, 2nd Floor, City Hall.

For the **PLANNING & ZONING COMMISSION**

Ben Bryner, Planning Services Manager

Please call me at (325) 676-6237 if you have questions about this notice.

CASE #: CUP - 2014-01

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also fax or email your position to the fax number or email address also listed below. All correspondence must include your name and address.

Name: JAQUES PHYLLIS
Address: 3265 WINTER HAWK DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604

Fax #: (325) 676-6242
email: planning@abilenetx.com

I am in favor

I am opposed

Additional Comments:

Too much traffic/parking backing up onto Bruce -

January 6, 2014

To Whom It May Concern:

My name is Donae Raymundo. My children have been in the care of Amber Massey for 2 ½ years now. During that time, they have learned so many valuable life lessons as well as having exposure to foundational educational skills and experiences. Every time I am asked by someone which daycare my children attend, I am thrilled to tell them all about Amber and Amber's Angels.

Being the wife of a former Air Force service member can be very difficult especially when you do not have other family in town. Amber has filled the role of family member and friend for our family. During my husband's last deployment, Amber and her family helped me numerous times with the kids after hours if I needed to go to the doctor, or if I ran out of gas, or if I had any other need. They were my support system, and still are. I am forever grateful for their kindness, love, and help.

Amber loves my children just like her very own. She is an excellent provider for her students. They all know they are loved immensely. My son is always eager to go to her house because, "Mrs. Amber misses me!" Amber has done a wonderful job exposing her students to numerous life experiences that children in daycare centers do not often get during a day at a center. She has a weekly schedule packed with fieldtrips. They all attend gymnastics weekly, visit the library, play at the mall, eat at a restaurant, go to the park, and participate in art classes at the Grace Museum. If it looks fun, they do it. They go to Zoo class at the Abilene Zoo, and even get to play at the Splash Pad in the summer! Needless to say, my Kindergartener is always begging to go back to visit Mrs. Amber's house.

Amber's house is not just about having fun every day. She also uses a pre-school curriculum to help develop early literacy and math skills. The pre-school years from age 0-5 are so critical in a child's life. As a Kindergarten teacher, I am thrilled to see how much learning is going on in her home. My son

can spell his name, write it, count by rote and with one-to-one correspondence, he can identify and name almost every upper-case and lower-case letter in the alphabet. He knows all his shapes and colors, and has for a while. They are not just playing all day with toys. They are learning. She has helped instill a love of books and a love of knowledge. I couldn't be more grateful.

Amber Massey should be a Licensed Provider for Abilene so that more children may enter her home to be cared for and loved. There is absolutely NO one else that I would want caring for my children while I am at work. We are beyond blessed to have found her.

Thank you for your time,

Donae Raymundo

To Whom It May Concern,

I am Amber Massey's aunt. I would like to show my support for her becoming a Licensed Provider for the City of Abilene. I have known since she was a small child that she would become a wonderful mother and caretaker. She has such a loving, caring heart and will put other children above her own needs. I am from Post, TX and all my grandchildren live close. I would have been so happy to send my grandchildren to her at any time. I have often said I would love to send them to "Ms. Amber" for a "Manners Camp".

She provides loving discipline, teaches manners, life skills, and fun activities for the children she keeps and I feel the most important thing, she will pick them up and rock them and give them all the loving they need at that moment. She is a gift to the parents. They leave their children with her, knowing they are well taken care of and loved.

Thank You,
Karen Palmer
912 W. 14th Street
Post, TX 79356

To Whom It May Concern:

I am writing this letter to urge you to allow Amber Massey to become a Licensed childcare provider in Abilene.

Having worked myself in childcare and having multiple education degrees, I have extremely high standards when it comes to the care of my child. A year ago when I needed full-time care for my son, Amber was my first choice. It was one of the best decisions I have made as a parent. Every day I dropped my son off knowing that he would be safe and well cared for. And each day when I picked him up he was full of stories of how much fun he had and I was constantly amazed at the things he had learned. When he started Pre-K this fall, leaving Amber's care, he was excited for his new adventure, but quickly informed me that he wanted to go to Ms Amber's again in the summer. And whenever a friend is needing childcare, I automatically recommend they contact Amber to see if she has an opening.

Amber works incredibly hard to stay on top of the latest research and trends in childcare to assure that the kids in her home are receiving the absolute best care possible. For example, she offers a library of reading materials on parenting topics that families can refer to. Her dedication and professionalism are second to none. To Amber, childcare is not simply a job, it truly is a vocation. She has a rare gift and the Abilene community is truly fortunate to have her. People around town recognize her from the various field trips she takes the children on, and she is constantly complimented on how well behaved and happy her kids are.

By allowing Amber Massey to become a Licensed childcare provider and expand her business, you will be granting more families the opportunity to experience wonderful, well-rounded childcare. I would be more than happy to talk to you further about my experiences and opinions of Amber.

Thank you for your consideration,

Kara Hunter
Public Education Coordinator
Abilene Fire Department
(325) 676-6682 Office
(325) 725-4115 Cell

January 3, 2014

City of Abilene
P.O. Box 60
Abilene, TX 79604

Honorable Mayor Archibald and Council,

Please accept this letter as a personal recommendation for Mrs. Amber Massey. I understand she is applying to become a licensed child care provider with the City of Abilene.

I am sure each of you have a passion in life. Children and their well being is Amber's passion. She has spent her entire life caring for children. Her passion started at the age of 2 taking care of her younger twin sisters. By age 11 she was already babysitting. Her love and nurturing of children determined her course of study in her adult years. Amber graduated from Cisco College in Early Childhood Development and began her career in Child Care 21 years ago. She has obtained numerous licensing throughout her career. All have been demanding and stringent to obtain but she has not wavered in the demand of obtaining these documents in order to be able to do what she loves.

Your job as a council is to make sure the people of Abilene are afforded a great quality of life while living in your fair city. Good affordable child care is the number one concern of many responsible Abilene parents. Many of the children Amber is willing to care for have special needs. Not only has she obtained the necessary licensing for basic care, but she has educated herself in many specialized areas to help children obtain their full potential no matter their challenges. Day Care facilities have a place in Abilene but private facilities are a necessity for many parents looking for premium or specialized Child Care.

Thank you for your consideration in this matter and joining us as an advocate for the children of Abilene.

Sincerely,

Thressa Baker

January 5, 2014

City of Abilene
Abilene City Council
PO Box 60
Abilene, TX 79604

To the Abilene City Council:

This letter is in regards to Amber Massey's petition to become a licensed provider in Abilene, TX. My child is currently in Amber's care and I am in full support of her being able to expand her care to more than six children under the age of five. It was obvious from the first time I met Amber and her husband, Dustin, that they had a genuine love for children and were blessed by the opportunity to care for them in their own home.

Amber has been caring for children for the past 20 years and Dustin has recently retired from the United States Air Force after serving 20 years. They are looking forward to the opportunity to work together with young children in our community and I have full confidence that they will serve them to the best of their ability.

While they do rely on the income generated from caring for children that is NOT their main motivation for doing so. Amber provides a quality of care that, from my experience, is not duplicated anywhere in Abilene (trust me I have looked). The activities, food, equipment, personal care items, etc are all top of the line and they would not have it any other way. The request to increase the number of kids in their care is not driven by a monetary desire but a passion to spend their day with children they can teach and help grow in a **home environment**. As a working mother, I am beyond grateful for the time, energy, patience, and most of all love that Amber and Dustin pour out onto my little girl every weekday.

I understand there is concern for the impact on the neighborhood in considering this petition. I fully respect the desire to maintain the quality and integrity of the neighborhood; however, I feel the few changes that would come with the approval of Amber's request are minimal compared to the impact they can have with the children in their care. If you were to drive by Amber's home today the only way you would be able to know it was a day care was by the small yard sign with her logo. I have never seen a single toy in the yard, never heard excessive noise, and never had a problem dropping off or picking up my daughter. It is rare that I encounter another parent as we pick-up and drop-off at varying times and are only there for a few minutes. To deny children the experience that Amber and Dustin can provide because of a few more cars (and I only mean a few...) stopping by their house for 5 minutes in the morning and afternoon would be a disservice to those children and parents.

If you were to grant the approval for Amber to become a licensed provider I have no doubt that the quality of care and consideration of her neighbors would be maintained at the high level they already hold themselves to. I appreciate your time and consideration in this matter and look forward to Amber having the opportunity to love on more children!

Respectfully,

Carolyn Jergins

Carolyn Freeman
7701 Lake Cypress Dr
Odessa, FL 33556
813-451-8438

04 January 2014

City of Abilene, TX
DFPS
Child Care Licensing

Dear Sir or Madam:

I am writing to you today in support of Amber Massey becoming licensed with the City of Abilene.

I first met Amber in 2006, when my husband was stationed at Dyess, AFB. UP until we moved to Texas we had always been blessed to have family care for our son while we worked. The idea of any daycare was frightening. After just one phone conversation and one meeting all my fears were erased! She was so professional, organized and warm hearted. I always knew of the schedule and plans for activities and meals. In the months that she cared for my son she taught him empathy, manners and so much more. It doesn't take long to see how much she loves the children and their families.

Amber was very attentive and had very open communication. She kept me alert of everything she observed about my son, good and bad, ways to encourage or discourage or try to correct behaviors and skills.

Meeting Amber and her husband was a saving grace for me in a way. I was a young overwhelmed mother, and I feel she taught me as much as she did my son. She and her husband recognized when I needed help and always offered help and suggestions in an understanding way. I believe I am a better mother today because of their support of me, and their love for my son.

It's important to me that you know how much Amber and her family was and still is trusted by our family, and I'm sure many others. After moving back to Florida I visited more Child Care Centers and Family Care Facilities than I can count, I never found one that came near Amber and her high standards. I recall at one point jokingly (kind of) begging her to move to Florida! To this day, when people ask for help to choose a child care facility, I tell them of my experience with Amber and her awesome qualities to look for.

Please feel free to contact me for anything further. We still love Amber Massey and think allowing her to share her love with more children will benefit more than just the children she cares for.

Sincerely,

Carolyn Freeman