

Request for Special Exception under DCMR 11-205
before the Board of Zoning Adjustment
Mana Bilingual Child Development, LLC
Form 120, Section 5-E, Applicant's Burden of Proof for Special Exception
Application

I. Request for Special Exception

Mrs. Cleotilde Kimmell (Mrs. Kimmell), as the primary member of Mana Bilingual Child Development, LLC (Mana Bilingual), requests that the Board of Zoning Adjustment consider her application for a special exception to change the designation of her current child development home to a child development center.¹ As a child development center, Mana Bilingual would be able to accommodate more than seven children without reapplying for a special exception every few years. Mrs. Kimmell intends to move out of the property at 6524 8th Street, NW and convert all three floors of the house into a child development center. Based on a preliminary estimate from an Office of the State Superintendent of Education (OSSE) Inspector, the house at 6524 8th Street, NW is large enough to accommodate 40 children. Mana Bilingual requests that the Board of Zoning Adjustment grant it permission to accommodate up to 36 children and 9 employees.

Mrs. Kimmell requests the Board of Zoning adjustment's guidance and expertise on how best to adapt her home to provide a much-needed child development center in her community. The following statement explains how this application meets the applicant's burden of proof for a special exception.²

¹ See D.C. MUN. REGS. tit. 11 § 199 (2014), defining the terms "child development home" and "child development center."

² D.C. MUN. REGS. tit. 11 § 205, 3104.1 (2014).

II. Background and Procedural History

Mrs. Kimmell has been living at 6524 8th Street, NW for 8 years. This neighborhood is zoned as R-1. In 2007, Mrs. Kimmell organized Mana Bilingual and applied for a home occupancy permit to run a small child development home. She was allowed the accessory home occupation use and was licensed by OSSE.³ In 2009, after a successful year of working with six children and in response to community demand, Mrs. Kimmell filed for a Special Exception under DCMR 11-205 to expand the number of children permitted in her child development home from six to twelve children.⁴ ANC 4B wrote a letter of support for Mrs. Kimmell's application. The Board of Zoning Adjustment granted the special exception on March 9, 2010.

III. Mana Bilingual provides a necessary service to the community and will use this special exception to help meet the needs of neighborhood families.

Since 2009, Mrs. Kimmell has been operating Mana Bilingual as a child development home that can accommodate up to twelve children. Mrs. Kimmell employs four staff. Mana Bilingual has become an integral member of the community, providing daily childcare and educational services for families within the neighborhood.

Mrs. Kimmell and Mana Bilingual provide a special service to families in the immediate area. Mana Bilingual is one of the few child development facilities in the area that accepts the District of Columbia Child Care Subsidy/Voucher Program. Mrs. Kimmell accepts the maximum number of DC Vouchers permitted by OSSE, a total of six vouchers, for a child development home. The other families pay only what they can afford. Each day, Mrs. Kimmell also prepares nutritious, fresh meals for the children for breakfast and lunch. Mrs. Kimmell uses her more than twenty years of experience providing childcare to ensure that the children are receiving personal attention and excellent care. By offering all of its daily childcare services at little or no cost to

³ D.C. MUN. REGS. tit. 11 § 203 (2014).

⁴ D.C. MUN. REGS. tit. 11 § 199 (2014).

neighborhood families, Mana Bilingual allows low-income families access to quality childcare within their community.

Mana Bilingual currently has a waiting list of families who hope to obtain Mana Bilingual's services for their children. If permitted to change its designation from "child development home" to "child development center," Mana Bilingual will be able to accommodate these children, as well as others from within the community. Mrs. Kimmell is committed to continue to accept the OSSE Voucher as well as to continue to prioritize neighborhood families for acceptance into the program.

In order to accommodate increased need and demand within the community, Mrs. Kimmell hopes that through this application she will be granted permission to move out of her home at 6524 8th Street, NW and convert all three levels of the property into a child development center. Mrs. Kimmell's six years' experience in running a child development facility, as well as careful planning in conjunction with ANC 4B and the community, will facilitate this conversion with no negative impact on the residential area.

IV. Mana Bilingual meets the burden of proof for all tests required to grant a special exception for a child development center in a residential zone.

A. DCMR 11-3104.1: Mana Bilingual is consistent with and furthers the general intent and purpose of R-1 zoning districts by providing a necessary service to the community and conforming to all regulatory and zoning requirements.

The zoning regulations in R-1 Districts are intended to protect quiet residential areas and to "promote a suitable environment for family life."⁵ Mana Bilingual is operated in accordance with these purposes and will continue to do so if permitted to accommodate more children. Mrs. Kimmell has an excellent relationship and open communication with neighbors in her neighborhood. She has never received a complaint from neighbors about disruptive noise, traffic, or lighting. The children who spend the day at Mana Bilingual learn and play indoors and, when they go outside, walk with the

⁵ D.C. MUN. REGS. tit. 11 § 200.2 (2014).

staff to the newly renovated park on Van Buren Street. Because Mrs. Kimmell accepts the OSSE Voucher, low-income families are able to access quality childcare services within their neighborhood. Mana Bilingual facilitates a “suitable environment for family life” by providing affordable childcare services in a convenient, safe, and loving environment.

B. DCMR 11-3104.1: Mana Bilingual will not adversely affect the use of neighboring properties because it will create no disturbances to traffic, noise, or lighting.

If Ms. Kimmell is granted this exception, she is committed to maintaining a facility that serves the immediate community and does not negatively impact the traffic or parking conditions in the area. When Ms. Kimmell first applied for the special exception to expand from six to twelve children, some neighbors were concerned about potential noise and traffic disturbances. Since that time, Mana Bilingual has had no complaints about a negative effect on neighboring properties. Because Mana Bilingual serves the immediate community, most families walk their children to 6524 8th Street, NW each morning and afternoon. For those who do drive their children to the facility, pick-up and drop-off occurs on 8th Street. The road has parking available on both sides of the street and is sufficiently unoccupied in the day to avoid any traffic or parking obstruction.

None of Ms. Kimmell’s employees park on the street when they travel to work; instead, they walk to the center or take the bus. Ms. Kimmell will have to hire more employees if this special exception is granted. She is committed to hiring any additional employees from within the community. If new employees will drive to work, there is always sufficient parking on 8th Street in front of Mana Bilingual.

Mana Bilingual will not create any disturbance outside the facility with noise or lighting. Mrs. Kimmell does not intend to make any structural changes to the outside of the house. The children are also not permitted to go outside except when accompanied by a staff member. None of the activities conducted at Mana Bilingual create excessive noise or disturbance that can be detected from outside the building. In adding additional

children to the facility, Mrs. Kimmell recognizes that the impacts on the neighborhood may be different than her experience with twelve children in the past years. In order to ensure that the transition to a child development center does not disturb or inconvenience neighbors, Mrs. Kimmell is willing to work closely with the community to come up with creative solutions to any unforeseen problems that may arise. If granted the change in designation, Mrs. Kimmell will ensure that neighbors and community members are able to contact her directly at all times during Mana Bilingual's hours of operation. Through direct and open communication, Mrs. Kimmell will be able to immediately address any issues or disturbances that may arise during the transition to accommodating more children in the facility.

C. DCMR 11-205.2: Mana Bilingual is capable of meeting all applicable code and licensing requirements.

Mana Bilingual has always passed OSSE inspections and has had no problem maintaining its home occupancy license with OSSE.⁶ If this special exception is granted, Mana Bilingual will seek a child development center license, rather than a home occupancy license, and will continue to comply with all applicable codes for running a child development center.

D. DCMR 11-205.3: Mana Bilingual will create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance.

Mana Bilingual is open from 7:00 am until 6:00 pm. Because there is no set drop-off or pick-up time, all parents do not arrive at the facility at once. Mana Bilingual currently serves twelve children from within the immediate community. Most children are walked to and from the center by their parents. If they drive, no parents stay more than a few minutes in the morning and afternoon.

⁶ See Home Occupancy Permit, attached and marked Applicant's Exhibit 1.

In its six years of operation, Mana Bilingual has not affected traffic conditions and parking. Mrs. Kimmell has not received any complaints from the community regarding parking or traffic. If granted the special exception to accommodate more children, Mrs. Kimmell is committed to prioritizing service for families within the community in order to limit the number of cars that drive to the property each day. If, however, Mana Bilingual begins to notice any congestion on the road in the mornings and afternoons, Mrs. Kimmell will implement staggered drop-off and pick-up times with the parents in order to ensure free flow of traffic.

Pick-up and drop-off occurs on 8th Street, which has sufficient parking on both sides of the road to avoid any objectionable traffic condition. On the occasions that parents, visitors, or employees need to stay for more than a few minutes, Mrs. Kimmell has made arrangements with two neighbors who have volunteered their off-street parking spaces for parents' use.⁷

E. DCMR 11-205.4: Mana Bilingual provides sufficient off-street parking spaces to meet the reasonable needs of employees and visitors.

Although Mrs. Kimmell's property at 6524 8th Street does not have off-street parking, she has made arrangements with neighbors to provide sufficient off-street parking for her facility. Mrs. Kimmell has received letters of commitment from two neighbors who have offered their off-street parking spaces (one large drive way and one parking space) for any circumstances that require a parent or employee to park a car for any extended period of time.⁸

F. DCMR 11-205.5: Mana Bilingual restricts the use of its outside yard to no more than four children at a time to ensure that no objectionable impacts are made on adjacent or nearby properties as a result of noise, activity, visual or other objectionable conditions.

⁷ See Paragraph IV, E.

⁸ See letters attached and marked Applicant's Exhibits 2 and 3.

Because the children play and learn indoors, Mana Bilingual does not create any additional noise from outdoor play areas. There is a small yard on the left side of the property, but this area is only used for drop-off, pick-up, and if a child is unable to sleep during naptime. Mana Bilingual policy is that no more than four children may be in the yard at a time. Mrs. Kimmell ensures that her side yard is kept tidy and safe to avoid any objectionable conditions. If Mana Bilingual is granted this special exception, Mrs. Kimmell is committed to upholding the policy of no more than four children in the yard at a time, and she will continue to maintain the side yard for cleanliness and safety.

G. DCMR 11-205.7: Mana Bilingual staff accompanies the children daily, weather permitting, to the nearby playground on Van Buren Street, ensuring that the travel between the facility and the playground is safe and does not result in endangerment of the children.

When weather permits, Mana Bilingual children are taken to Takoma Playground on the corner of Van Buren Street and 3rd Street for outdoor play. The playground is newly restored and has a fence surrounding it. Infants are transported using a carriage. Children who can walk hold onto a rope and walk in single-file line, accompanied by staff. In accordance with OSSE regulations, the children are accompanied by qualified, adult staff at the ratio of four children per adult. This remains true when the children are taken outside. If the special exception is granted, Mrs. Kimmell will hire the appropriate number of staff members to maintain the four to one ratio.

V. Conclusion

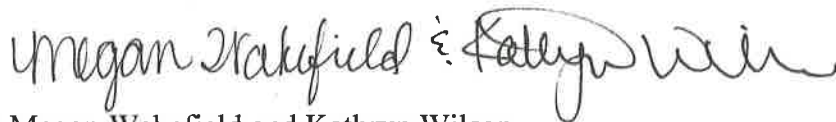
Mana Bilingual has been an asset to the community since 2007.⁹ Mrs. Kimmell hopes to continue to serve low-income families within her community by changing the designation of the child development home to that of a child development center. Mrs. Kimmell is committed to working with the community and ANC 4B to ensure that such a special exception in an R-1 zoning district will promote, rather than disturb, “a suitable

⁹ See letters of support attached and marked Applicant’s Exhibits 4 through 8.

environment for family life.” Although she plans to move out of the house to make use of all three floors of the building in the child development center, Ms. Kimmell is committed to staying within the neighborhood and remaining an active participant in her community.

Mrs. Kimmell requests that the Board of Zoning Adjustment grant her special exception to change Mana Bilingual’s designation from a child development home to a child development center. She is also asking for the Board of Zoning Adjustment’s guidance about the appropriate number of children for the 6524 8th Street, NW property. Although the OSSE Inspector estimated that the house could accommodate 40 children, Mrs. Kimmell is only requesting approval for 36 children. If the Board of Zoning Adjustment believes that another number is more appropriate, Mrs. Kimmell and Mana Bilingual respect the Board’s expertise and will accept its recommendation.

Respectfully Submitted,



Megan Wakefield and Kathryn Wilson
Student Attorneys, Community and Economic Development Law
Clinic

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Department of Consumer and Regulatory Affairs
Permit Operations Division
1100 4th Street SE
Washington DC 20004
Tel (202) 462-4400 Fax (202) 462-4062

HOP

HOME OCCUPATION PERMIT

PERMIT NO. HO1000847

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS OF WORK
UNITS, WORK IS COMPLETED AND APPROVED

Date: 07/02/2010

Address of Project: 4524 8TH ST NW		Zipcode: 20012	Zone: R-1-S	Ward: 4	Square Feet: 2673	Lot: 0001
Owner Name: Cleodide Gates Kinnaird		Owner Address: 5524 8TH ST NW WASHINGTON, DC 20012-2623				
Permission is Hereby Granted To: Homeowner		BZA No:	Issue Date: 7/2/2010		PERMIT FEE: APPL: \$35.00 PWY: \$55.00	
Business/Tenant: Cleodide Gates Kinnaird		Business Address: 5524 8TH ST NW		Business Type: Business		
Total Sq. Footage: 1920	% of Lot: 10 - 20	Sign: No	Sign Size and Name:			
Employees: No	No. Employees: 0	Leased Parking: No	Parking Type Provided: S		Off Street Parking: No	
Bed & Breakfast: No	Meals Served:	# Sleeping Rooms:	No. Residents:		Other Residents:	
Days of Operation: M-F		Hours of Operation: From: 7 AM To: 6 PM				
Conditions/Restrictions: BZA ORDER #1915 - CHILD DEVELOPMENT CENTER FOR 15 CHILDREN AND 4 TEACHERS PARKING TO BE PROVIDED OFF-SITE. Expensive home use to a maximum of twelve (12) children. As a condition precedent to the issuance of this permit, the owner agrees to conform with all conditions set forth herein, and to perform the work authorized hereby in accordance with the approved application and plans on file with the District Government and to adhere to all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all work authorized by this permit and to require any change in construction which may be necessary to ensure compliance with the permit and with the applicable regulations of the District of Columbia. Work authorized under this Permit must start within one (1) year of the date appearing on this permit or the permit is automatically void. If work is started, any application for partial refund.						
Director: Linda K. Argo		Permit Clerk: Michele Williams		Expiration Date:		
TO REPORT ABUSE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-621-1639 FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-8667 TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-8667						

3/18/2014

Re: BZA Application

To the board of Zoning Adjustments (BZA):

I am a neighbor of Cleotilde Kimmell we live only a few houses away from each other; I submit this letter to support Ms. Kimmell's application to the BZA for special exception and variance relief. To support her request for variance relief from the Zoning Regulations parking requirements, I am willing to offer Ms. Kimmell the access to my rear garage, and use of my off street parking spot in case that she need it. Thank you for your consideration of this offer.

Sincerely;

Name: Juan Pablo Velasquez Signature: Juan P Velasquez
Address: 6512 8th St NW
Washington DC 20012

3/18/2014

Re: BZA Application

To the board of Zoning Adjustments (BZA):

I am a neighbor of Cleotilde Kimmell I live by her side; I submit this letter to support Ms. Kimmell's application to the BZA for special exception and variance relief. To support her request for variance relief from the Zoning Regulations parking requirements, I am willing to offer Ms. Kimmell the access to my rear garage, and use of my off street parking spot in case that she need it. Thank you for your consideration of this offer.

Sincerely;

Name: Francis R. Yates Signature: Francis R. Yates
Address: 6520 8th St NW, Wash. DC 20012

711 Roxboro Pl, NW

Washington, DC 20011

March 13, 2014

To whom it may concern:

My two year old son, Diego, is in Cleotilde Kimmell's daycare and has been participating there daily since he was three months old. Cleo recently shared about her hopes to change the daycare from a home daycare to a daycare center that could offer services to more children and families.

We have had a wonderfully positive experience at Cleo's daycare and are happy that we have the opportunity to be a part of it. It is clear that she and the staff care very much about the individual children, and Diego loves going to school each day and seeing his friends and the teachers. There are age appropriate activities offered, and later in the day when I arrive for pick up, I often see the kids engaged in different activities based on their level. My husband and I find the set-up and the combination of children and activities to be an asset to our son's daycare and developmental experience.

Our son is growing up bilingual at home and it is important at this age to reinforce both languages in his daily care. These elements are pieces not offered in other types of care settings and certainly not with a reasonable, licensed care provider. It is important to us that Diego is in a safe, loving environment and has the opportunity to practice and interact with children of different ages, practice and strengthen his English and Spanish language skills, and develop curiosity and adventure while also learning respect and honesty. The number and variety of children and their ages and experiences is important for all of the children to learn how to interact in the world, and I believe these experiences at a young age better prepare them for how to be active, healthy, engaged adults.

The location of Cleo's daycare is very convenient for us- we live in Brightwood and it is less than a mile away. Drop off in the morning and pick up in the evening are easy. There are ample spaces on the street to park for a few minutes during those times and there is a convenient space to leave strollers for when my husband picks up Diego and they walk home together.

Cleotilde Kimmell's daycare is an important part of our family life as a support and resource for us as Diego grows and develops. We look forward to hearing how the process goes and encouraging other children and families to have the experience of participating in Cleo's daycare.

Please feel free to contact me if you have further questions. I can be reached at 202-360-3428 or kcarrillo@live.com.

Cordially,



Kristyn Carrillo

7307 Piney Branch Road
Takoma Park, MD 20912
March 11, 2014

Office of the State Superintendent of Education
810 1st Street NE, 9th Floor
Washington, DC 20002

To Whom It May Concern:

I am writing as a parent of a toddler under Ms. Cleo Kimmel's care at Mana Bilingual Multicultural Child Development Center (CDC) at 6524 8th Street NW, Washington, DC. My daughter has been under the care/supervision of Ms. Kimmel for almost two years – starting when she was approximately 3 months old.

We have had a universally positive experience with Mana CDC, have found all staff caring for the children and families well, the Center clean and tidy, and management extremely professional. Center policies are clear and rules are clearly applied to the children. We regularly drop off/pick up our daughter via vehicle, and have found parking and traffic adequate, with generous on-street parking available on both Van Buren Street and 8th Street, NW.

We understand that Ms. Kimmel may apply for an expanded license that will enable her to use what is now her home (the main and upper floors of the home) as additional Center space. Given Ms. Kimmel's experience with childcare, proactivity meeting and exceeding safety and sanitary requirements, and overall desire to provide a nurturing environment to her students, I would recommend fully considering her application.

Please contact me should you have additional questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Sutton", written in a cursive style.

Christopher N. Sutton

3/5/14

To Whom it May Concern:

I recently had a conversation with my childcare provider, Ms. Cleotilde Kimmell, about some potential changes to her childcare license. I want to formally support Ms. Kimmell's ambition to open a daycare center.

Ms. Kimmell, and her assistants provide undeniable quality care that is abundantly obvious. I generally stand in awe as arguments over toys are resolved in seconds, children are always happy, and meals are nutritious. The facility is large and has plenty of dedicated childcare space and toys for the children. Frequent are the days when my daughter refuses to leave when I come to pick her up. Every goodbye involves multiple hugs and farewells – to children and providers alike – and promises to return in the morning. I can only liken Cleo's skills in wrangling the children to that of the Dog Whisperer or Mary Poppins. She sets boundaries and limitations in such a kind and fun way that even the toddlers obey.

The location of Ms. Kimmell's daycare is very convenient and easily accessible. At present all of the families in the daycare live within walking distance (.5 miles or less) and only a couple drive. I believe we are the only family that will on occasion leave our car there during the day and have never had a problem finding parking directly in front of the house. Since the streets in that area aren't zoned, and as far as I can tell everyone has a driveway or alley parking spot, I can't imagine that parking would ever be an issue.

The Takoma DC neighborhood needs another childcare center. This neighborhood is a blend of aging long-term residents and new young families. The new park has provided many opportunities for me to talk with families in the area and there is clear demand for quality childcare that is conveniently located. I know for example, another in-home provider expanded to a center (Mi Palacio) about a year and a half ago and already has a waiting list of about six months. I also know that De Colores childcare center also has a waitlist of almost a year. Both of these centers are within a mile of Ms. Kimmell's location.

Please feel free to call me if you have any questions. My cell is 651-308-6903.

Sincerely,



Karissa Huntington
215 Underwood St. NW
Washington, DC 20012

Erin Louise Palmer & Eric Atilano
715 Van Buren Street, NW
Washington, D.C. 20012

March 4, 2014

To Whom It May Concern:

We are writing in support of Maná Bilingual Family Development Center's application to become a Child Development Center. As the parents of two children who are currently enrolled at Maná, we are incredibly pleased with the quality of care provided by Ms. Cleotilde Kimmell and her staff. We believe that Maná's expansion will ensure the provision of such high-quality care to a growing number of families and be a positive enhancement to our local community.

We have been consistently impressed with the quality of care of our two young children since their enrollment at Maná in April 2013. Ms. Cleo and her staff are kind, nurturing, and consistent. In their care, our children play and learn; eat healthy, homemade food; engage in regular physical activity; and begin to learn how to be positive members of society through socialization with other neighborhood children. The caretakers at Maná are positive role models for our children. Like most parents, we are very particular about who takes care of our children, and we are confident and comfortable that they are well taken care of at Maná.

We are particularly in favor of Maná's expansion due to the over-saturation of the market for childcare services. One of the first pieces of advice we received on getting pregnant was to immediately get on waitlists for daycares because it can take **years** to get off the waitlist. That advice proved to be true; in fact, we were on the waitlist for one daycare downtown for over **two years**. We know we are not alone in this situation. There is increasing demand for high-quality childcare and only a limited number of positions available. Ms. Cleo would be providing a much-needed service by expanding the number of spots available in her daycare.

Maná contributes positively to the community. Ms. Cleo and her family are long-time residents of the neighborhood. Her daycare provides a space for neighborhood children to grow together and for families to forge lasting relationships that help our community grow. In fact, we have met lifelong friends through Maná, including Ms. Cleo and her family. As people who occasionally work from home and live 1/2 a block from Maná, we have never noticed any problems with noise or parking. There is no question in our mind that Maná and the community would face no trouble transitioning to an expanded center.

We thank you for your time and consideration of Maná's expansion. Please do not hesitate to contact us directly. We can be reached at (202) 821-6333 or erinlouisepalmer@hotmail.com.

Sincerely,



Erin Louise Palmer & Eric Atilano

Samantha L. Ware
5415 Connecticut Ave., NW Apt. 216
Washington, DC 20015

March 3, 2014

(202)288-0247

Office of the State Superintendent of Education
810 1st Street NE, 9th Floor
Washington, DC 20002

Re: Mana Bilingual Multicultural Center/Cleotilde Kimmell

To Whom It May Concern:

I am a mother writing to request that you give Mana Bilingual Multicultural Center permission to continue operating as a family center. My son has been in the care of Cleotilde (Cleo) Kimmell for the past fourteen months. At just eighteen months of age, my son can build towers, finish puzzles, and even shout out all of the letters of the alphabet! He is not only smart, he is a sweet and loving boy who stops mid-story to give hugs and kisses.

Like most mothers, I struggled with finding a center that would not only encourage my son's development, but also nurture his character. Coming to Mana, I found more than a daycare center – I found a home away from home. My son is greeted each morning with a warm hug and smile. Cleo and her staff care for my son like family.

I would like to bring to your attention a more serious topic. My son was diagnosed with life threatening food allergies at just ten months old. I cannot over emphasize how important it is that my son has consistent and thorough caretakers who pay special attention to which foods and drinks he is exposed. At Mana, I do not have to worry whether my son will be assigned a new teacher or when he will be transferred to a new classroom. I am able to communicate my son's needs directly with Cleo and know that mealtimes will be handled with the highest level of care and control.

Quality and affordable childcare for infants is nearly impossible to find in the District – which is unfortunate because it means that many young families are forced to move to surrounding areas to care for their children. Cleo offers unmatched care at an affordable rate. Her home is in a safe and quiet residential neighborhood with plenty of street parking available. There is even a beautiful playground within walking distance that my son adores.

I look forward to Cleo, her family and Mana serving the children of our community for years to come.

Sincerely,

Samantha L. Ware