

Application

McCree

ARCHITECTS & ENGINEERS, INC.



Variance Application

for

The Church of Jesus Christ of Latter-Day Saints,
Key West, Florida

Building (Steeple) Height Variance Request
to exceed the 25'-0" building height limit in order to
accommodate an appropriate steeple on the
worship facility.

May 28, 2010

500 E. Princeton Street
Orlando Florida 32803

P 407 898-4821
F 407 898-8763

P.O. Box 547369
Orlando Florida 32864-7369

www.mccree.com

DESIGNED & BUILT RIGHT!

**VARIANCES ARE QUASI-JUDICIAL HEARINGS AND IT IS
IMPROPER TO SPEAK TO A PLANNING BOARD AND/OR BOARD
OF ADJUSTMENT MEMBER ABOUT THE VARIANCE
OUTSIDE THE HEARING**

Variance Application

City of Key West
Planning Department

JAN - 2010

Please print or type a response to the following:

1. Site Address 3424 NORTHSIDE DR., KEY WEST, FL.
2. Name of Applicant MCCREE ARCHITECTS & ENGINEERS, INC.
3. Applicant is: Owner Authorized Representative
(attached Authorization Form must be completed)
4. Address of Applicant 500 E. PRINCETON ST.
ORLANDO, FL. 32803
5. Phone # of Applicant 407.898.4821 Mobile# 407.898.4821 Fax# 407.896.8763
6. E-Mail Address rich.gaines@mccree.com
7. Name of Owner, if different than above CORP. OF THE PRELATING BISHOP OF THE
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
8. Address of Owner 50 E.H. TEMPLE
SALT LAKE CITY, UT 84150
9. Phone Number of Owner 407.898.4821 Fax# 407.896.8763
10. Email Address rich.gaines@mccree.com
11. Zoning District of Parcel SF RE# 00065830-000000
12. Description of Proposed Construction, Development, and Use
THE PROPOSED PROJECT CONSISTS OF A NEW 5621 S.F.
MEETINGHOUSE/CHAPEL W/ 20 PAVED PARKING SPACES
THE IS NO CHANGE OF USE.

13. Required information: (application will not move forward until all information is provided)

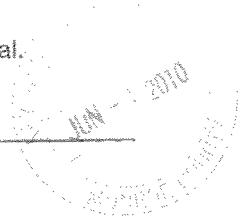
| | Required | Existing | Requested |
|-------------------------|----------|---------------|---------------|
| Front Setback | 30' | 30' | 30' |
| Side Setback | 15' | 15' | 15' |
| Side Setback (GARAGE) | 20' | 20' | 20' |
| Rear Setback | 25' | 25' | 25' |
| Building Coverage | N/A | 3322 SF 4% | 5962 SF 7% |
| Open Space Requirements | 20% | 97381 SF 76% | 34,023 SF 45% |
| Impervious Surface | 60% | 17,592 SF 23% | 31,849 SF 53% |

14. Is Subject Property located within the Historic District? Yes _____ No
 If Yes, indicate date of HARC approval as well as the HARC Approval Number. Attach minutes of the meeting.

Date N/A HARC # N/A

15. Are there any easements, deed restrictions or other encumbrances attached to the subject property? Yes No _____ If Yes, please describe and attach relevant documents. POWER EASEMENT

16. Will the work be within the dripline (canopy) of any tree on or off the property?
 YES NO _____
 If yes, provide date of landscape approval, and attach a copy of such approval.



Check List

(to be completed by Planning Staff and Applicant at time of submittal)

| Applicant Initials | Staff Initials | The following must be included with this application |
|--------------------|----------------|---|
| <u>PL</u> | _____ | Copy of the most recent recorded deed showing ownership and a legal description of the subject property |
| <u>PL</u> | _____ | Application Fee (to be determined according to fee schedule) |
| <u>PL</u> | _____ | Site Plan (existing and proposed) as specified on Variance Application Information Sheet |
| <u>PL</u> | _____ | Floor Plans of existing and proposed development (8.5 x 11) |
| <u>PL</u> | _____ | Copy of the most recent survey of the subject property |
| <u>PL</u> | _____ | Elevation drawings as measured from crown of road |
| <u>PL</u> | _____ | Stormwater management plan |
| <u>N/A</u> | _____ | HARC Approval (if applicable) |
| <u>PL</u> | _____ | Notarized Verification Form |
| <u>PL</u> | _____ | A PDF or compatible electronic copy of the complete application on a compact disk |

to be sent

Please note that all architecture or engineering designs must be prepared and sealed by a professional architect or engineer registered in the state pursuant to F.S. chs. 471 and 481, respectively. Two signed and sealed copies will be required at time of submittal.

Standards for Considering Variances



Before any variance may be granted, the Planning Board and/or Board of Adjustment must find all the following requirements are met:

1. Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district.

The building is a House of Worship in a Single Family (SF) zoning district. Unlike other residences in the zone, Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints (the "Church") needs a steeple of appropriate height to identify the building as a chapel and to convey a religious message, namely, devotion and ascension to God. As described in the accompanying letter, the federal Constitution and the Religious Land Use and Institutionalized Persons Act ("RLUIPA") protects churches against land use regulations that substantially burden the exercise of religion, including the right to construct an adequate steeple. The Church therefore requests a variance of 24.62', the minimum height necessary to construct a proportional, non-habitable steeple (spire) that communicates the inspirational message the Church intends to convey and distinguishes the building as a house of worship.

2. Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.

The SF zoning district allows for a House of Worship. Here, flood plain criteria, the functional width of the building and roof slope require the roof structure to be at the allowable height of +25'. The City has the authority to waive height restrictions for non-habited spires and cupolas under the Zoning Code Section 122-1149. The City Charter, Article 1, Section 1.05 (b) has been interpreted as requiring a variance for a steeple (spire) while section (b) excludes height variances for non-habitable spires from public referendum.

Moreover, the Church holds as a religious tenet the need to locate its buildings in a neighborhood near to where local members live, in this case, a SF zoning district. Not only does locating the chapel in residential neighborhood make the Church more accessible to members and decrease traffic, it fosters an important sense of community among members. Members participate as part of the local lay ministry; they "meet together oft" to worship and "to speak one with another concerning the welfare of their souls"; they make sacred promises to "bear one another's burdens that they may be light."¹ Chapels, thus, become a center of the religious community, and must be readily accessible to members' homes.

3. Special privileges not conferred. That granting the variances(s) requested will not confer upon the applicant any special privileges denied by the land

¹ *Book of Mormon*, Mosiah 18:8-9, 25, Moroni 6:4-6.

development regulations to other lands, buildings or structures in the same zoning district.



None conferred; the sole purposes of the variance are to allow a House of Worship to be distinguished as such from the residential and commercial buildings adjoining the site and to proclaim the religious message that is of core doctrinal importance to Church members—the idea of faith in and ascension to God.

4. Hardship conditions exist. That literal interpretations of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.

The “unnecessary and undue hardship” that enforcement of the height ordinance would impose on the Church and its members is detailed in the accompanying letter. In short, the Church doctrinally requires a steeple of appropriate height (approximately 25 feet tall), and the height restriction imposed by section 122.238(3) would prohibit construction of such a steeple in violation of RLUIPA, the federal constitution, and Florida law.

5. Only minimum variances(s) granted. That the variance(s) granted is/are the minimum variance(s) that will make possible the reasonable use of the land, building or structure.

The variance does not seek more than is minimally required. This request is the minimum of 24.62’ to create a steeple (spire) that is proportional to the building, identifies the chapel as a house of worship, and adequately proclaims the Church’s religious message as described above and in the accompanying letter.

6. Not injurious to the public welfare. That granting of the variances(s) will be in harmony with the general intent and purpose of the land development regulations and that such variances will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.

Granting the requested variance will not be injurious to the public welfare. The steeple (spire) and House of Worship have been voluntarily setback so as not to infringe on the adjacent properties or public right of way. The structure will be designed and installed in accordance with the Florida Building Code and wind load requirements. Moreover, granting the variance will further serve the public interest, safety, and welfare because a steeple in the proposed design would enable the Church and its members to freely exercise and express their religion in accordance with federal and state law. Further, a steeple of appropriate height would enhance the beauty of a chapel that significantly benefits the community by providing a place where youth can go to escape the pull of drugs, delinquency and other socially destructive behavior, where members learn self-sufficiency, civic mindedness, and personal responsibility, and by hosting such non-religious community events such as food, clothing, and blood drives or serving as a polling station.

The variance, if granted, will not alter the essential character of the surrounding neighborhood. Like the chapel itself, the steeple is understated in design and in keeping with the surrounding neighborhood. And a steeple of appropriate height will only enhance the beauty of an already attractive building.

7. Existing nonconforming uses of other property shall not be considered as the basis for approval. That no other nonconforming use of neighboring lands, structures, or buildings in the same district, and that no other permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

Existing nonconforming uses of other properties are not the basis of this application. However, existing local, state, and federal laws would require that the Church's requested variance be accommodated if other existing Houses of Worship have been allowed to avoid height limitations.

The Planning Board and/or Board of Adjustment shall make factual findings regarding the following:

- The standards established in subsection (a) have been met by the applicant for a variance
- That the applicant has demonstrated a "good neighbor policy" by contacting or attempting to contact all noticed property owners who have objected to the variance application and by addressing the objections expressed by these neighbors.



Verification Form

JUN -1 2010

Verification Form

Please note, variances are quasi-judicial hearings and it is improper to speak to a Planning Board or Board of Adjustment Member about the variance outside of the hearing.

This form should be completed by the applicant. Where appropriate, please indicate whether applicant is the owner or a legal representative. If a legal representative, please have the owner(s) complete the following page, "Authorization Form".

I, Richard Gaines/McCree Architects & Engineers, Inc., being duly sworn, depose and say
Name(s) of Applicant(s)

that: I am (check one) the _____ Owner X Owner's Legal Representative
for the property identified as the subject matter of this application:

3424 Northside Drive, Key West, Florida 33040
Street Address and Commonly Use Name (if any)

All of the answers to the above questions, drawings, plans and any other attached data which make up this application, are true and correct to the best of my knowledge and belief and that if not true or correct, are grounds for revocation of any action reliant on said information.

Richard Gaines
Signature of Owner/Legal Representative

Signature of Joint/Co-owner

Subscribed and sworn to (or affirmed) before me on 3/26/10 (date) by
Richard Gaines (name) He She is personally known to me or has
presented _____ as identification.

Beverly S. Etscorn
Notary's Signature and Seal

NOTARY PUBLIC-STATE OF FLORIDA _____ Name of Acknowledged typed, printed or stamped
Beverly S. Etscorn
Commission # DD952564 Title or Rank _____ Commission Number (if any)
Expires: JAN. 30, 2014
BONDED THRU ATLANTIC BONDING CO., INC.

Authorization Form

JUN 1 2010

Authorization Form

Please note, variances are quasi-judicial hearings and it is improper to speak to a Planning Board or Board of Adjustment Member about the variance outside of the hearing.

Please complete this form if someone other than the owner is representing the property owner in this matter.

I, Wayne F. Hales, Project Manager Agent in the State of Florida for The Church of
Please Print Name(s) of Owner(s)

Jesus Christ of Latter-day Saints, authorize

Richard Gaines/McCree Architects & Engineers, Inc.
Please Print Name of Representative

to be the representative for this application and act on my/our behalf before the Planning Board.

Wayne F. Hales
Signature of Owner

Signature of Joint/Co-owner, if applicable

Subscribed and sworn to (or affirmed) before me on 3/26/10 (date) by

Wayne F. Hales
Please Print Name of Affiant

He/She is personally known to me or has
presented _____ as identification.

Beverly S. Etscorn
Notary's Signature and Seal

NOTARY PUBLIC-STATE OF FLORIDA
Beverly S. Etscorn
Commission # DD952564
Expires: JAN. 30, 2014
BONDED THRU ATLANTIC BONDING CO., INC.

Name of Acknowledger printed or stamped

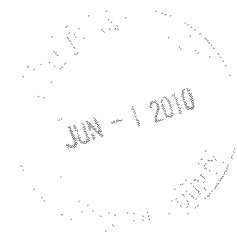
Title or Rank

Commission Number (if any)

THE CHURCH OF
JESUS CHRIST
OF LATTER-DAY SAINTS

11 August 2008

DIRECTOR FOR TEMPORAL AFFAIRS
50 E. North Temple St. Rm. 426W
Salt Lake City, Utah 84150-6912
Phone: 1-801-240-6266



Reference: Wayne F. Hales, Project Manager
Agent in the State of Florida for
The Church of Jesus Christ of Latter-day Saints

To: All Interested Parties

This letter authorizes Wayne F. Hales, Project Manager, as agent in the State of Florida to act for the Church of Jesus Christ of Latter-day Saints in signing for permits, applications, contracts (up to \$100,000) and other such documents and to conduct business for the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, a Utah Corporation Sole, in regards to meetinghouse and other construction projects on Church property. This authorization is given to Wayne F. Hales from the North America Southeast Area Director for Temporal Affairs, Brent L. Buckner of the same said Church.

Mr. Brent L. Buckner is authorized directly from David H. Burton, Presiding Bishop of the Church of Jesus Christ of Latter-day Saints. A certificate of authorization is attached.

Sincerely,

Brent L. Buckner
Director for Temporal Affairs
North America Southeast Area

Attachment

Subscribed and sworn before me this 19 day of AUGUST, 2008.

Diane W. Brown
Notary Public



Deed

111764

OFFICIAL RECORD 289 PAISE 538

Key West Fla
Monroe County

This Indenture, made this 12th day of August, 1963,
 between CENTRAL BANK AND TRUST COMPANY, of Miami, Florida, a corporation duly organized
 under the laws of the State of Florida and duly authorized to accept and execute trusts within the State
 of Florida, not personally but as Trustee under the provisions of a deed or deeds in trust duly recorded
 and delivered to said Trust Company in pursuance of a certain Trust Agreement, dated the 8th
 day of May, 1961, and known as Trust Number 61-409, party of
 the first part, and Day Saints, a Utah Corporation sole
 of Salt Lake County, Utah, a corporation organized and operating under the laws
 of the State of Utah, party of the second part.

WITNESSETH, that said party of the first part, in consideration of the sum of -----
-----TEN and NO/100----- Dollars, and other good and valuable considera-
 tion in hand paid, does hereby grant, sell and convey unto said party of the second part, the following
 described real estate, situated in Monroe County, Florida, to-wit:

FILED FOR RECORD
 1963 SEP 2
 EARL R. DUNN, CLERK
 MONROE COUNTY, FLORIDA



On the Islands of Key West, Monroe County, Florida, and a part of Tract 18
 according to the "Plat of Survey of Lands on Island of Key West, Monroe County,
 Florida" as recorded in Plat Book 3 at Page 35, Monroe County, Official Records,
 and is more particularly described as follows:

Begin at the northwesterly corner of Lot 1, Block 5, Pearlman Heights subdivision
 as recorded in Plat Book 4 at Page 85 (northeasterly corner of said Tract 18);
 thence south 84 degrees 14 minutes 40 seconds west along the southerly line of a
 proposed road a distance of 205.10 feet to a point of curve of a curve concave to
 the south having a radius of 509.61 feet and a central angle of 26 degrees 29
 minutes; thence westerly following said curve and along the southerly line of said
 proposed road a distance of 44.96 feet to a point; thence south 05 degrees 45
 minutes 20 seconds east a distance of 298.02 feet to a point; thence north 84 degrees
 14 minutes 40 seconds east a distance of 250 feet to a point in the westerly line of
 said Pearlman Heights Subdivision; thence north 05 degrees 45 minutes 20 seconds west
 along said Westerly line a distance of 300 feet back to the point of Beginning.

TO HAVE AND TO HOLD the same unto said party of the second part and to the
 proper use, benefit and behoof, forever, of said party of the second part.

This deed is executed by the party of the first part, as Trustee, as aforesaid, pursuant to and in the
 exercise of the power and authority granted to and vested in it by the terms of said Deed or Deeds in
 Trust and the provisions of said Trust Agreement above mentioned, and of every other power and au-
 thority thereunto enabling, SUBJECT, HOWEVER, to the liens of all mortgages upon said real estate,
 if any, of record in said county; all unpaid general taxes and special assessments and other liens and
 claims of any kind; pending litigation, if any, affecting the said real estate; building lines; building,
 liquor and other restrictions of record, if any; party walls, party wall rights and party wall agreements,
 if any; Zoning and Building Laws and Ordinances; mechanic's lien claims, if any; easements of record
 if any; and rights and claims of parties in possession.

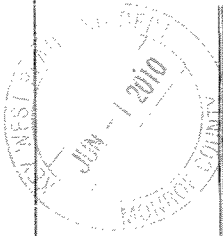
IN WITNESS WHEREOF, said party of the first part has caused its corporate seal to be hereon
 affixed, and has caused its name to be signed to these presents by its Trust Officer and attested by its
 Vice-President, the day and year first above written.

CENTRAL BANK AND TRUST COMPANY
 as Trustee, as aforesaid and not a party
 By: [Signature]
 Vice-President and Trust Officer
 Attest: [Signature]
 Assistant Cashier

Signed, sealed and delivered in our presence.

Witnesses:
[Signature]
Ruth Sullivan

FORM 10 70
 VLB



#500-8735

EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints hereinafter called grantor(s) do hereby grant an easement to THE UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA, hereinafter called grantee, for public utility purposes, in, under, over and across the hereinafter described land, in the management, operation, maintenance, extension, construction and improvement, thereof, to wit:

On the Island of Key West in Monroe County, Florida,

A part of property described in Official Records Book 289, Pages 358/359 of the Public Records of Monroe County, Florida.

Start at a point on the southerly Right-of-Way of Northside Drive and the northeast corner of the property described above; thence bear West along the southerly Right-of-Way of Northside Drive a distance of 144.5 feet to a Point, this Point being the Point of Beginning; thence bear South running parallel and adjacent to the easterly property line a distance of 15 feet to a Point; thence bear West running parallel and adjacent to Northside Drive a distance of 5 feet to a Point; thence bear North running parallel and adjacent to the East property line a distance of 15 feet to a Point; thence bear East along the southerly Right-of-Way of Northside Drive a distance of 5 feet back to the Point of Beginning.

It being intended to describe a strip of land 5 feet by 15 feet.

An easement for the installation of (2) guys, (1) anchor and all other appurtenances necessary.

Together with the right of ingress and egress over property of the grantor(s), so as to afford the grantee complete use and enjoyment of this easement, including the right to cut and trim, from time to time, trees, brush, over-hanging branches and other natural obstructions on the above described land, which may injure or interfere with the full and complete use of the aforesaid easement.

This easement shall terminate if at any time its use is discontinued for year (s).

IN WITNESS WHEREOF, these presents have been executed by the grantor(s) herein, all as of the 3rd day of October A.D. 1991.

Signed, Sealed and Delivered in the presence of:

Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, a Utah Corporation 1991

Brunelle Meditter
(Witness)

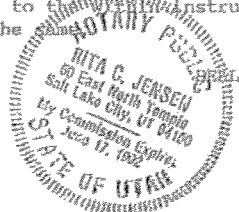
[Signature]
(Seal) AUTHORIZED AGENT

Ana Mella
(Witness)

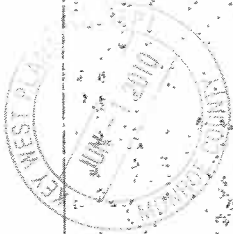
(Seal)

STATE OF *Utah* ss
COUNTY OF *Salt Lake*

On *October 3, 1991*, before me the undersigned, a Notary Public in and for said County and State, personally appeared *led J. Simmons* known to me to be the person(s) whose name(s) *is* subscribed to the instrument and acknowledged that *he* executed the



Rita C. Jensen
Notary Public in and for said County and State



No. 143

A. H. Golan,
Vincent Conley,
Charles Helberg.

EASEMENT
Dated March 9, 1960
Filed March 14, 1960
Clerk's File No. 78962
Recorded in Official
Record 179 Pages 29-31

To

THE CITY OF KEY WEST,
FLORIDA, a municipal
corporation of Florida.

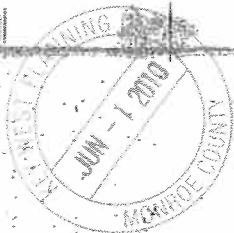
KNOW ALL MEN BY THESE PRESENTS, that A. H. Golan, Vincent Conley, Charles Helberg, hereinafter called grantor, do hereby grant an easement to THE CITY OF KEY WEST, FLORIDA, a municipal corporation of Florida, hereinafter called grantee, to be used and enjoyed through and by the UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA, for public utility purposes, in, under, over and across the hereinafter described land, in the management, operation, maintenance, extension, construction, improvement, supervision and control of the municipal electric utility owned by the said THE CITY OF KEY WEST, FLORIDA, to-wit:

On the Island of Key West in Monroe County, Florida.

This easement being for the purpose of constructing a transmission line on the Proposed Road, running parallel to North Roosevelt Boulevard, which is 20th Street extended, as recorded in Plat Book 3, Page 35, Official Records of Monroe County, Florida.

Together with the right of ingress and egress over any adjoining property of the grantor so as to afford the grantee complete use and enjoyment of the easement hereby granted, including the right to cut, trim, and remove, from time to time, trees, brush, over-hanging branches and other natural obstructions on the above described land, which may injure or interfere with the full and complete use and enjoyment of the aforesaid easement.

This easement shall terminate if at any time its use is discontinued for 2 year.



No. 144

THE FIRST NATIONAL BANK OF
LEESBURG, FLORIDA, TRUSTEES
FOR MESSRS. A. E. GOLAN,
CHARLES HELBERG AND VINCENT
CONLEY, By: Phyllis A. Butler,
Assistant Trust Officer.

EASEMENT
Dated May 3, 1961
Filed May 23, 1961
Clerk's File No. 90255
Recorded in Official
Record 218 Page 6

To

THE UTILITY BOARD OF THE CITY
OF KEY WEST, FLORIDA.

KNOW ALL MEN BY THESE PRESENTS, that THE FIRST NATIONAL BANK OF
LEESBURG, FLORIDA, TRUSTEES FOR MESSRS. A. E. GOLAN, CHARLES HELBERG AND
VINCENT CONLEY, hereinafter called grantor, do hereby grant an easement to
THE UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA, hereinafter called
grantee, for public utility purposes, in, under, over and across, the
hereinafter described land, in the management, operation, maintenance,
extension, construction and improvement, thereof, to-wit:

On the Island of Key West in Monroe County,
Florida.

This easement being for the purpose of constructing a transmission
line on the proposed road, running parallel to North Roosevelt Boulevard,
which is 20th Street extended as recorded in Plat Book 3, page 35 and
Deed Book G-66, page 365; Official Records of Monroe County, Florida.

Together with the right of ingress and egress over property of the
grantor, so as to afford the grantee complete use and enjoyment of this
easement, including the right to cut and trim, from time to time, trees,
brush, over-hanging branches and other natural obstructions on the above
described land, which may injure or interfere with the full and complete
use of the aforesaid easement.

This easement shall terminate if at any time its use is discon-
tinued for 1 year.

Survey



LAND USE / DRIVEWAY

LEGEND

- SF - SINGLE FAMILY
- MF - MULTI FAMILY
- OFC - OFFICE
- RETAIL - RETAIL



Project for:

**THE CHURCH OF
JESUS CHRIST
OF LATTER-DAY SAINTS**

Description:

LDS - KEY WEST

3424 NORTHSIDE DRIVE
KEY WEST, FL 33040

3/31/10 CONDITIONAL USE PERMIT

License #
AAC002100

MSD/ISS Number: 09042

McCreeTM
ARCHITECTS & ENGINEERS, INC.

550 E. PENROCK ST., DUBLINO, FL 32603
P: 407-856-4821; F: 407-856-9799
www.mccree.com

Project Number:
6000873809010201
Plan Sheet:
SHA-130-2-107-03
Property Number:
500873809110101