

IN THE COUNTY COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA.

STATE OF FLORIDA,
Plaintiff,

CASE NO.: 05-2018-CF-010385-AXXX-XX

vs.

STEPHEN THOMAS NORMAN
Defendant.

MOTION TO CLARIFY CONDITION OF PROBATION AS APPLIED TO
DEFENDANT'S PLACE OF RESIDENCE

COMES NOW, the Defendant, STEPHEN THOMAS NORMAN, by and through the undersigned attorney and pursuant to Fla. R. Crim. P. 3.190(g), and files this Motion to Clarify Conditions of Probation as Applied to the Defendants Place of Residence, in support thereof, Defendant alleges the following:

STATEMENT OF FACTS

1. The Defendant, NORMAN THOMAS SMITH, is a 72 year-old man, with no prior criminal history, is retired from Brevard County as an employee for over 30 years, and has resided at 140 Oyster Place, Rockledge, Florida, 32955 since 1989. The Defendant pled and has been designated as a sex offender, and is having an issue with Probation, because he allegedly lives within 880 feet, from, or within 1,000 feet of a park, specifically River Walk Park.
2. Riverwalk park has no playground, no athletic facilities, no ocean access, boat ramp, gymnasium, nor community center. (See Exhibit A). Riverwalk park is literally a 915" nature boardwalk with a parking lot, restroom, and a pavilion with 4 tables, and the Defendants house, according to probation is right around 900 from the property

line of RIVERWALK, and then divided by several other businesses, residences, woods, and easements. (See Incorporated Affidavit)

3. The park purports to have educational programs, but according to those who work at the facility, and the Defendant's sworn testimony, Riverwalk Park has not had any educational, or other programs at said park in well over a year, and before that only rarely. The Defendant also swears that RIVERWALK is not a place where children regularly congregate. Simply stated, Riverwalk Park does not meet the definition of a park under Florida Statute 772.215(b), because the statute states "[p]ark" means all public and private property specifically designated as being used for recreational purposes **and** where children regularly congregate." Riverwalk, is clearly NOT a place where children regularly congregate, it is not a place where children regularly congregate. (See Exhibit B).
4. Florida Statute 775.215(2)(a), further provides "[a] person who has been convicted of a violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, may not reside within 1,000 feet of **any school, child care facility, park, or playground.** However, a person does not violate this subsection and may not be forced to relocate if he or she is living in a residence that meets the requirements of this subsection and a school, child care facility, park, or playground is subsequently established within 1,000 feet of his or her residence."
5. Here, the Defendant does not even arguably reside within 1,000 feet of a **SCHOOL, CHILD CARE FACILITY, or PLAYGROUND**" so the only other possible issue, would be whether the Defendant lives within 1,000 feet of a **PARK**, which includes

the requirement per the statute that children "regularly congregate" there. The evidence is, that children do not regularly congregate at RIVERWALK, and therefore this subsection would not apply to the Defendant's residence.

6. Similarly, Brevard County Ordinances provide almost identical language to the Statutes above, and therefore are also inapplicable to the facts of this case.

WHEREFORE, the Defendant, STEPHEN THOMAS NORMAN respectfully requests this Honorable Court Clarify that the Conditions of Probation do not apply to the Defendant's Place of Residence for the reasons stated herein.

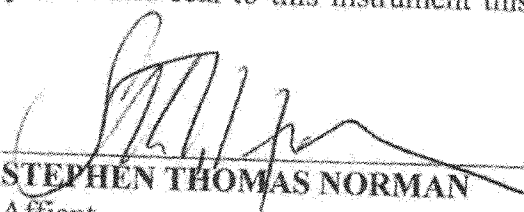
I HEREBY CERTIFY a true and correct copy of the foregoing Motion has been forwarded served by *eportal* on this 28th day of April 2021.

s//Michael Bross//

MICHAEL BROSS, ESQ.

Florida Bar No.:0599610
Attorney for Defendant
997 S. Wickham Road
Melbourne, Florida 32904
e-service: *michaelbross@brosslawoffice.com*
chrissy@brosslawoffice.com

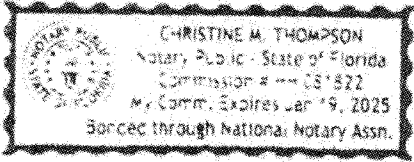
I, STEPHEN THOMAS NORMAN, of full age and legally competent, affirm under penalty of perjury that the foregoing attestations by me are true and correct and done so in good faith to the best of my knowledge. I have read the Motion and all of the contents are true and correct, and I am aware that if any of the foregoing statement is made by me are willfully false, I am subject to punishment. I hereunto set my hand and seal to this instrument this 28th day of April, 2021.


STEPHEN THOMAS NORMAN
Affiant

STATE OF FLORIDA

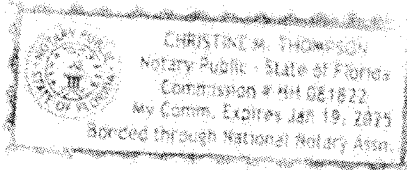
COUNTY OF BREVARD)
)

SWORN TO AND SUBSCRIBED before me, by means of physical presence or online notarization, this 28th day of April, 2021, by Affiant, STEPHEN NORMAN SMITH, who is personally known to me.



Christine M. Thompson

NOTARY PUBLIC



Key Park Features

Nestled along the Indian River Lagoon, this 6.37-acre community park features a Nature Center and boardwalk, which winds through a natural Florida hammock to the lagoon. A pavilion with restrooms is also situated in this natural setting. Restrooms are only available when the Nature Center is open. Only service animals are permitted. For more information about nature walks and activities, call (321) 433-4490.

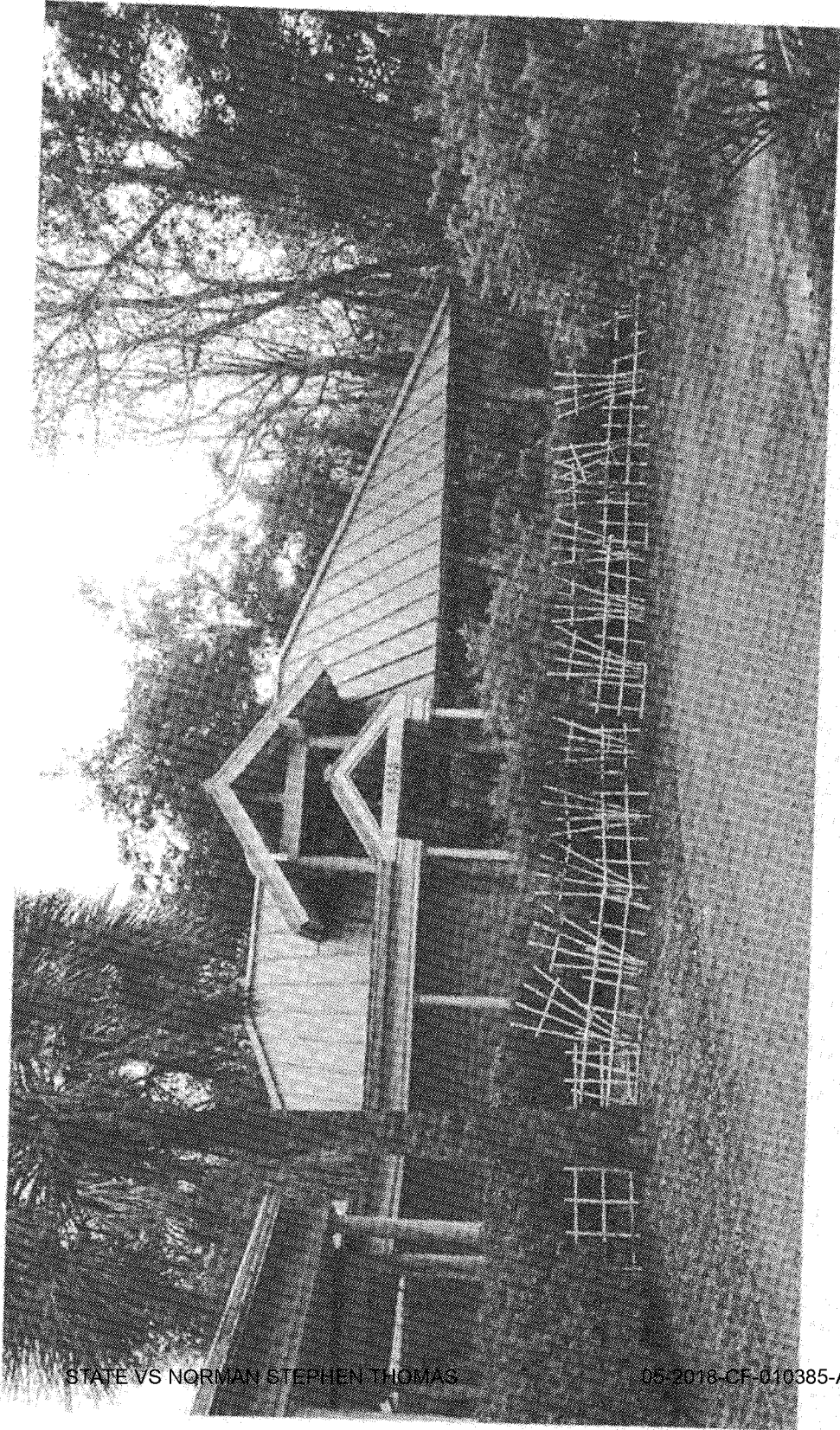
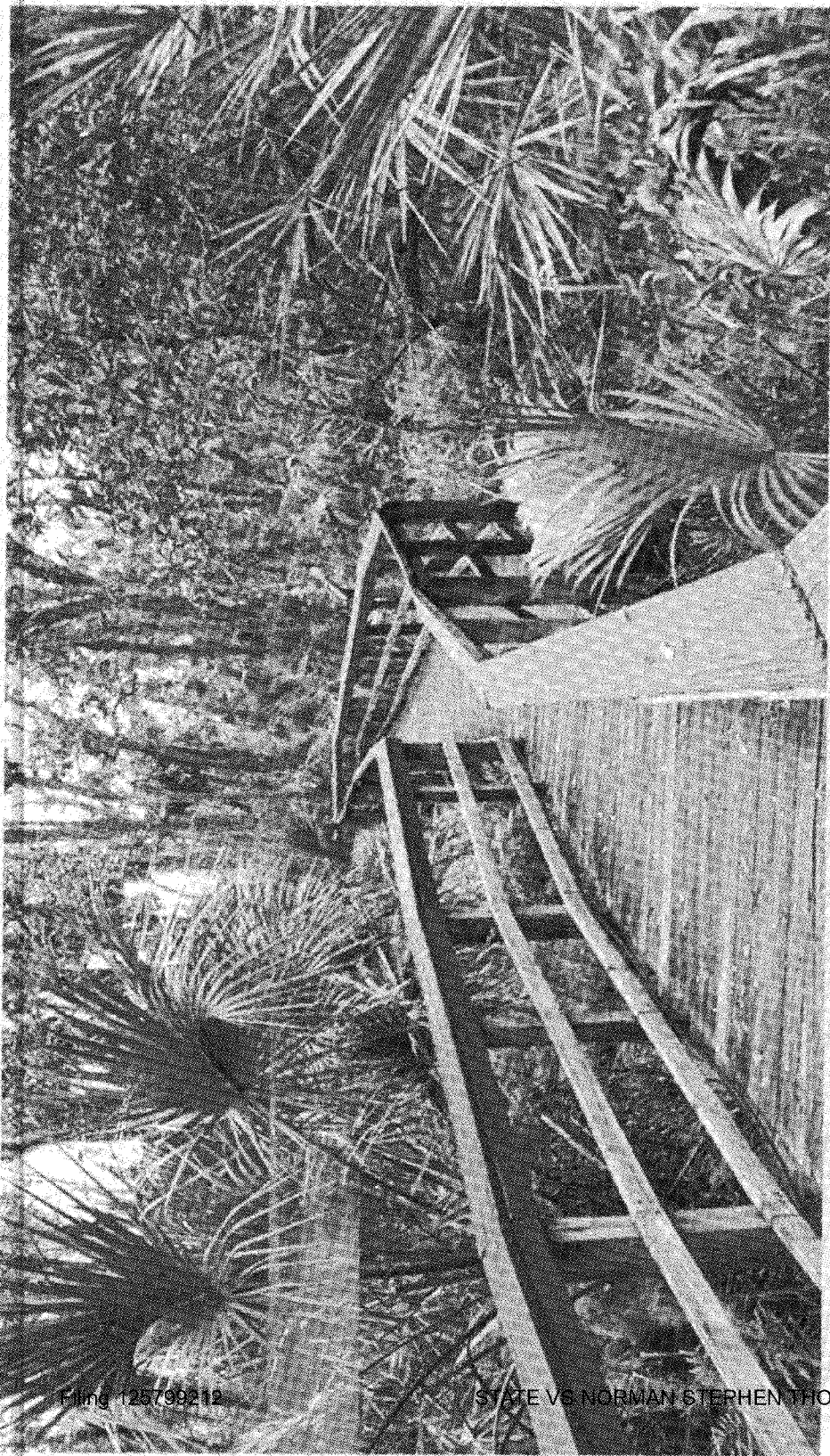
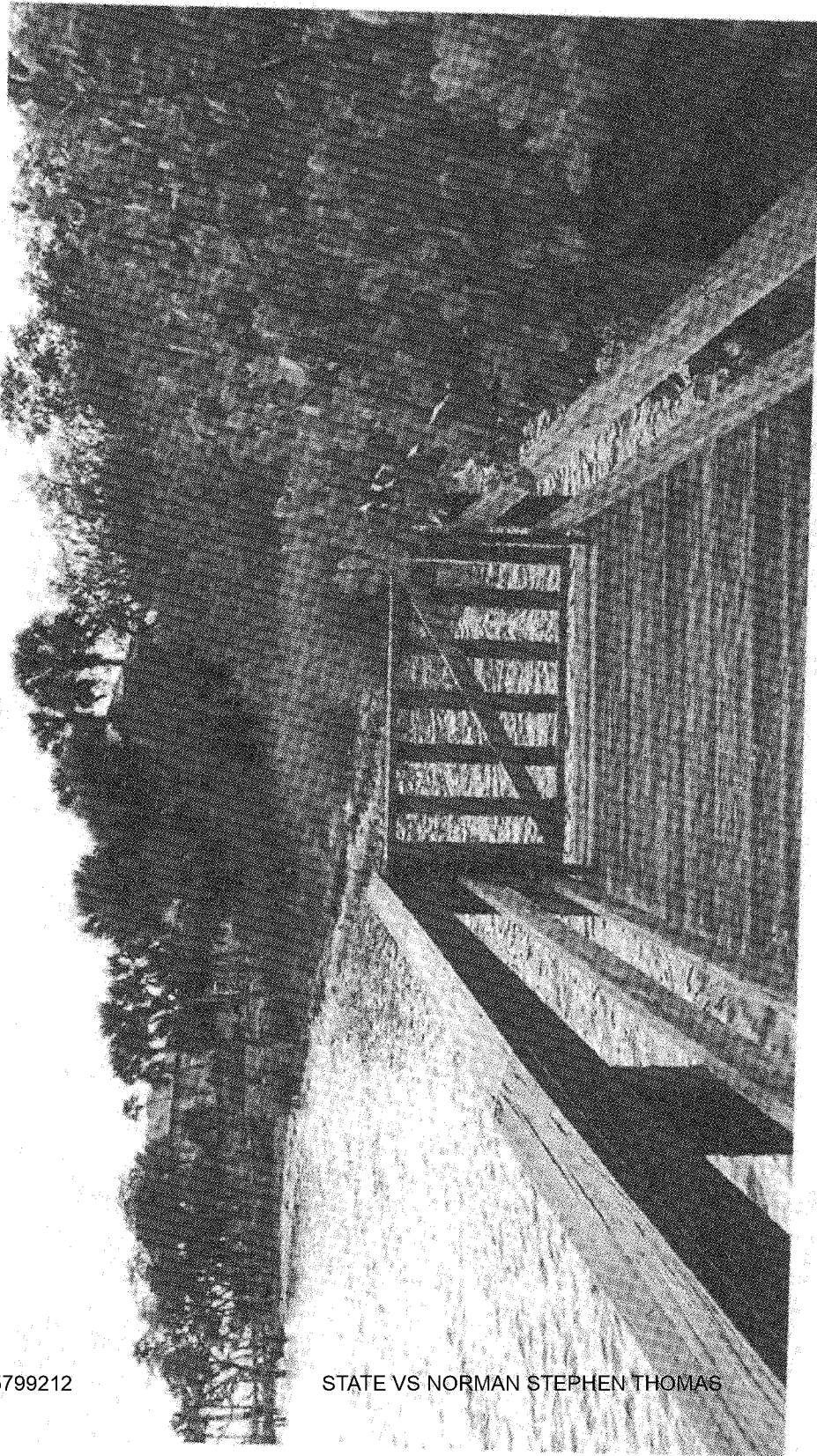


Exhibit A





Show Street Map	2027	2026	2019	2016	2014
Map	2027	2026	2019	2016	2014
Map	2027	2026	2019	2016	2014

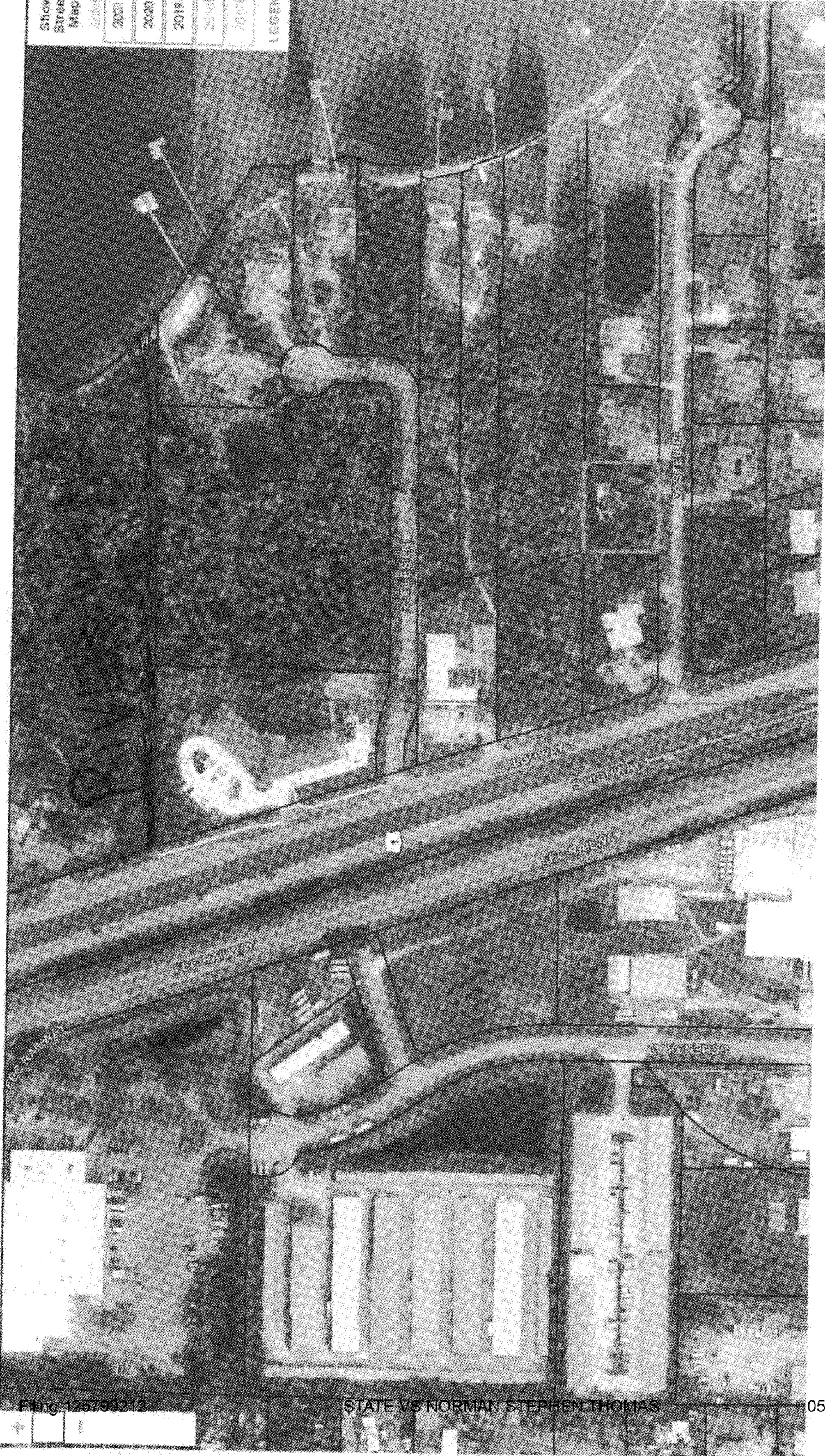
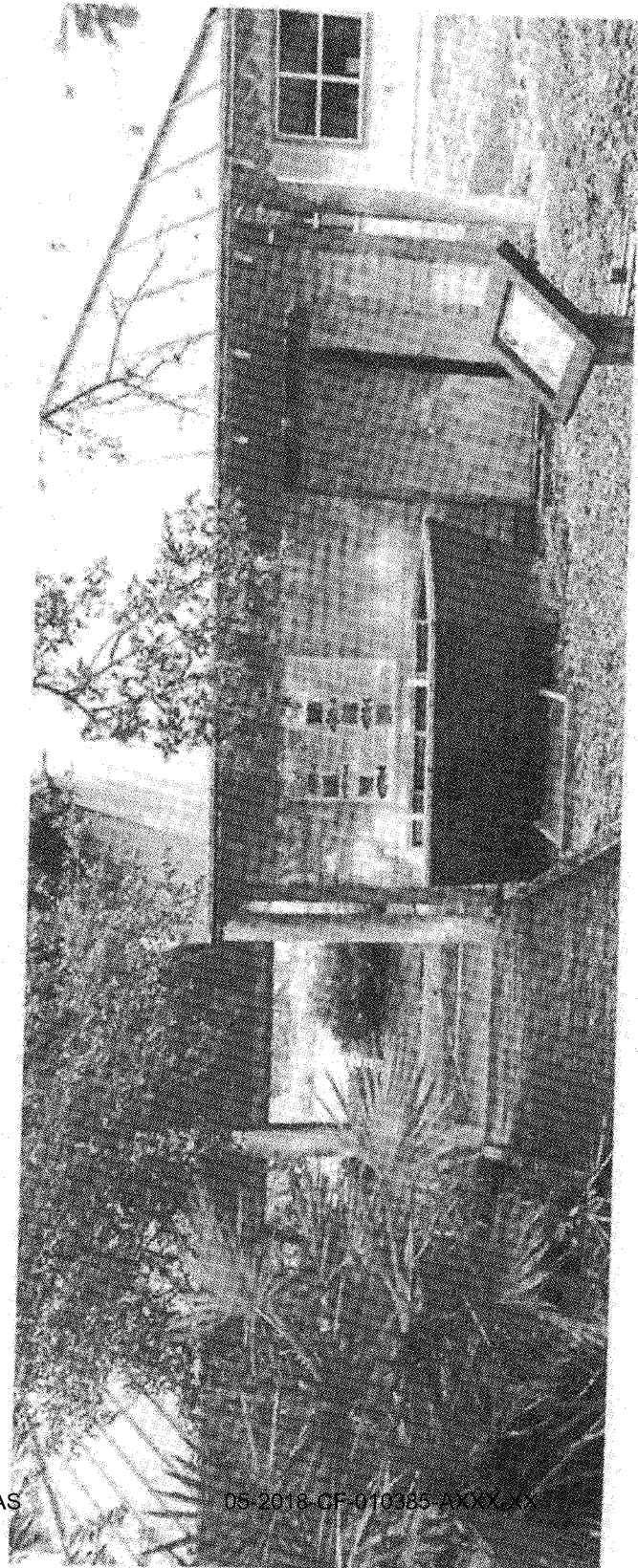
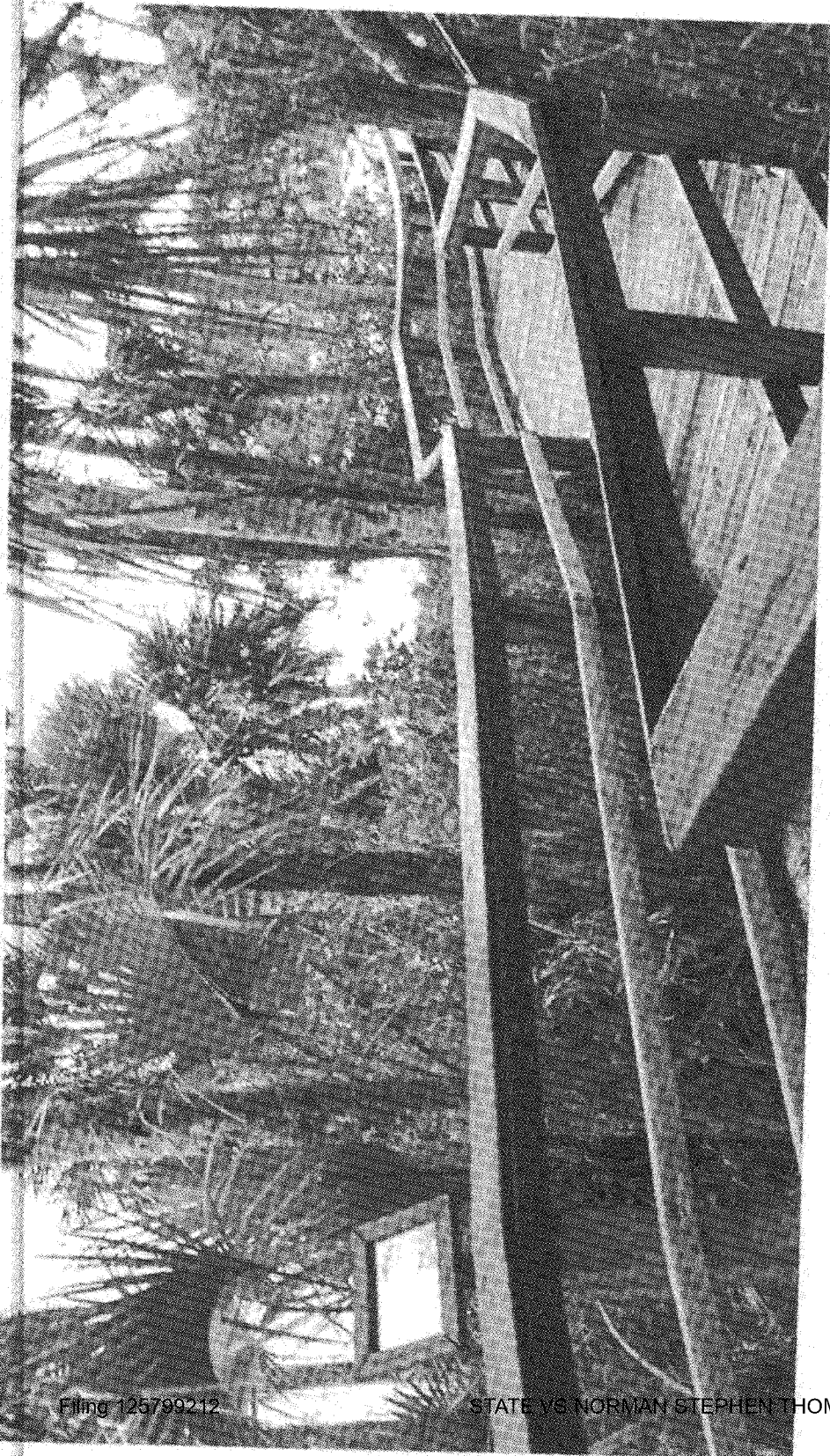
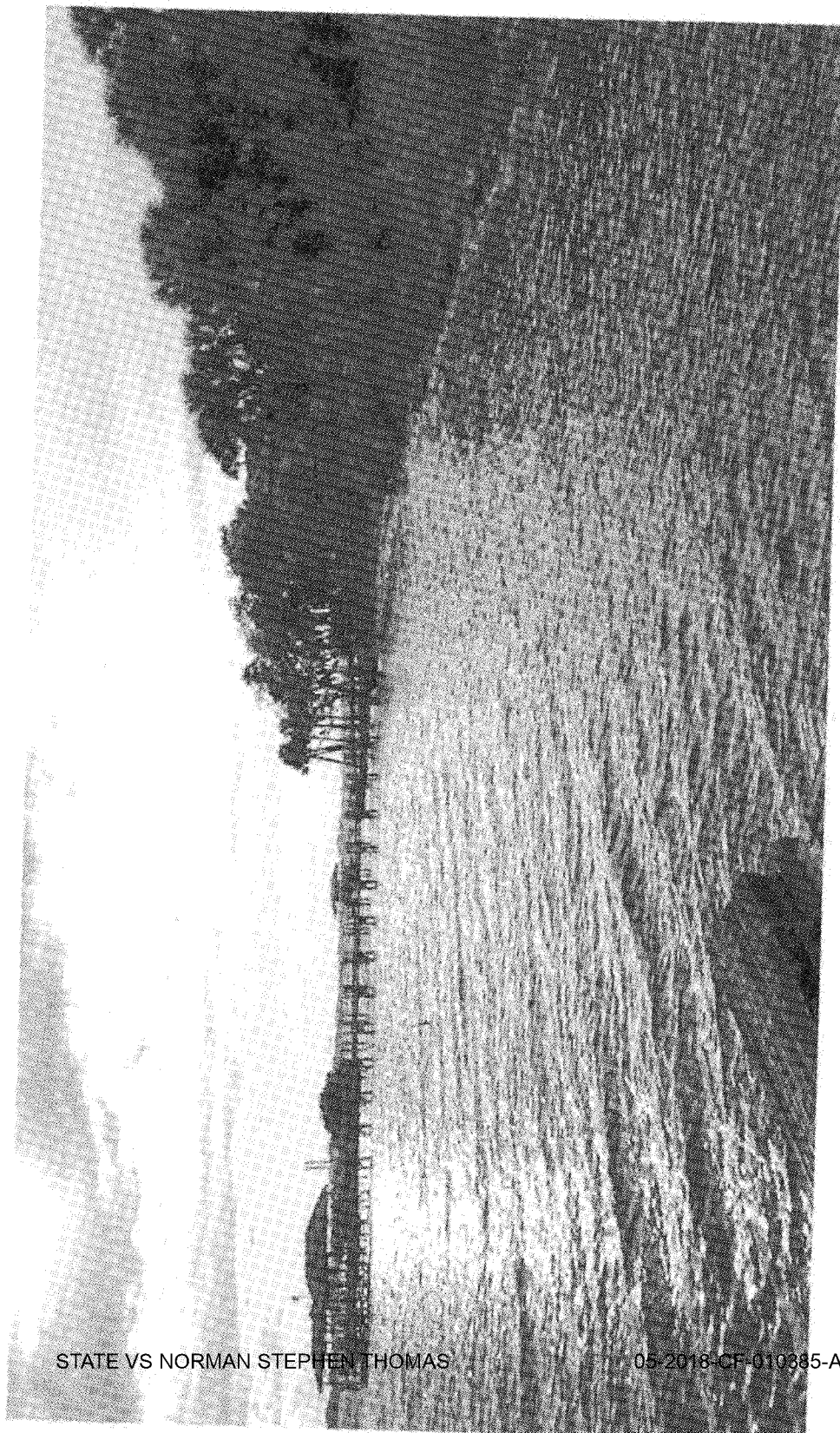
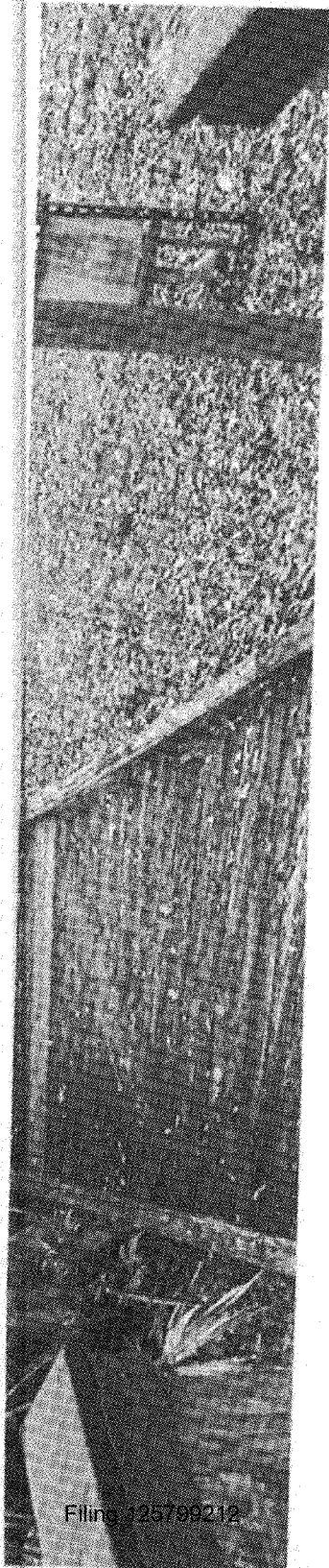


Exhibit B

Account: 592810 - Parcel ID: 25-23-010-010
 Sales: 10/11/17 12:00 PM
 BCPAO Market Value: \$329,640
 Owner: NORMAN STEPHEN THOMAS
 Address: 1410 5TH AV NW BLDG 1100 SE
 ZIP: 55412



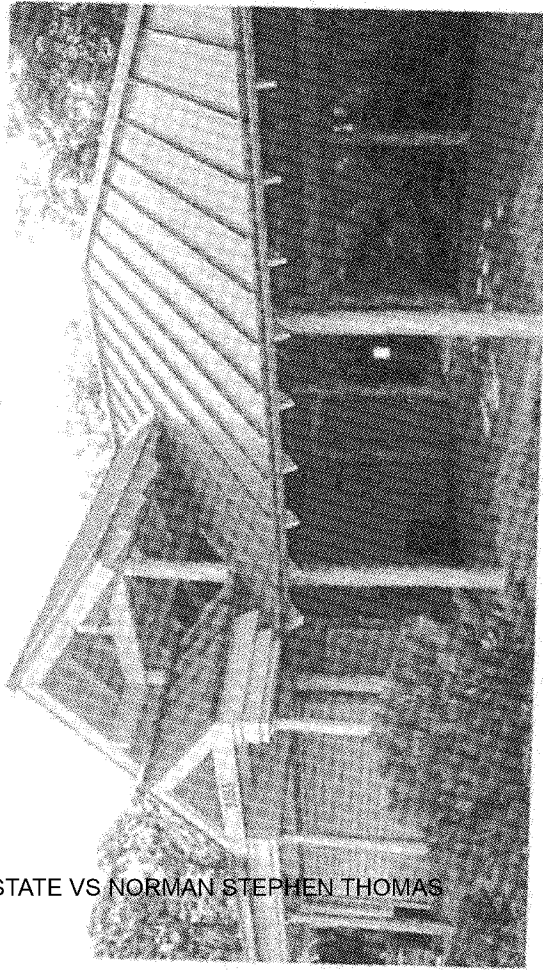


Project Shark Awareness

Students will learn about shark biology, behavior, and conservation. Artifacts such as shark jaws, skin, and teeth as well as stingray jaws and spines, and a preserved shark embryo will be available for hands-on exploration. Students will do an activity to see how fisheries can impact the health of sharks.

Rentals

Additional fees may apply. For additional information please call 321-633-1874.



Riverwalk Park Pavilion

600 sq. ft. with 4 tables

Reserve Pavilion

Pavilions:

1-500 sq. ft. with 4 tables

Picnic Shelters / Areas: No

Fishing Features: No

Riverwalk Nature Center Special Programs

The Riverwalk Nature Center features educational displays on the habitats and animals of the Indian River Lagoon. Many hands-on activities about the marine environment await inquisitive visitors. Aquaria are spread throughout the center, showcasing the animals of the Indian River Lagoon.

Ocean Adventures Educational Explorations Into Marine Ecosystems

Programs run approximately two hours and can be adapted for various age levels. All programs cost \$6.00 per person.

Estuary Explorers

This program explores the Indian River Lagoon, its different ecosystems, and its importance to both wildlife and humans. Students will also learn about the two major groups of fish (bony and cartilaginous), adaptations for swimming and feeding, and the purposes of coloration. Students will be using netting in the Indian River Lagoon where the children will be able to collect fish with nets and identify them. This program is limited to one group per week in order to minimize impact on the ecosystem. This is a wet activity which includes wading into the Indian River Lagoon. Students should dress appropriately including wearing close-toed shoes. For those groups that cannot get wet an alternate activity can be arranged.

Marine Mammal Medley

Students will learn how to identify a mammal, learn adaptations of marine mammals, and take a closer look at three different marine mammals of Florida: the right whale, bottlenose dolphin, and West Indian manatee. Students will then explore how some marine mammals use echolocation for navigation through a hands on activity.

Saving Sea Turtles

Students will learn about different species of sea turtles throughout the world with a focus on Florida's sea turtles. They will also explore sea turtle adaptations, nesting behaviors, threats facing sea turtle survival, and conservation efforts. Students will either play an interactive game that emphasizes how predation can affect hatchling numbers or participate in a mock sea turtle rescue where students will collect and record data on a stranded sea turtle.

Drifting Away - A Lesson in Plankton

Students will learn about the two types of plankton (phyto- and zoo-), food chains, and human interactions with plankton. Students will be given a chance to see plankton close-up using a plankton net and Discovery Scope magnifiers. Students will be able to construct their own planktonic organism and will be able to test its ability to drift.

Flotsam and Jetsam

Students will explore concepts related to ocean currents, tides, runoff, drift seeds, and sources of hazardous marine debris. Students will participate in a hands-on activity where they explore marine debris from the lagoon and how it may have been transported to the shore.

11. - Definitions.

used in this article, the following words and terms shall have the meaning ascribed thereto:

Day care center means any family or child care facility licensed by the state pursuant to F.S. ch. 402. For purposes of this article, a day care center includes the parking lot, curtilage, yards, landscaped areas, playgrounds, accessory buildings and all outdoor areas of the facility. It is the intent to include all areas reasonably included in and part of the facility.

Park means all publicly owned or operated property and private property specifically designated as being used for recreational purposes and where children regularly congregate.

Permanent residence means a place where a person abides, lodges, or resides for 14 or more consecutive days.

Playground means an established or dedicated outdoor area for recreation and play, including, by way of example and not limitation, soccer fields, baseball diamonds, football fields and locations with outdoor equipment, such as, by way of example and not limitation, swing sets, climbing apparatus and slides.

Public shelter means any shelter specifically designated by the county or any municipality to house persons in times prior to, during and after the threat or occurrence of disaster.

School means any public or private school to include charter schools as defined in F.S. § 1000.04(1) and 1002.01 (2005) excluding facilities dedicated exclusively to the education of adults.

Sexual offender. As defined in F.S. § 944.606(1).

Sexual predator. As defined in F.S. § 775.21.

Sexual predator and sexual offender shelter means any shelter officially designated by the county or any municipality that is designated to house sexual predators or sexual offenders in times prior to, during and after the threat or occurrence of disaster.

Temporary residence means any place where a person may abide, lodge or reside that is not that person's permanent residence.

(Ord. No. 2006-31, § 2, 5-16-06; Ord. No. 2020-13, § 2, 8-25-20)

Sec. 74-102. - Sexual offenders and sexual predators.

(a) *Prohibited residences of sexual offenders and sexual predators.* It is prohibited and unlawful for any sexual offender or sexual predator to abide, lodge or reside in a permanent or temporary residence located within the county when such residence is located within 1,000 feet of any school, day care center, park or playground, regardless of whether the school, day care center, park or playground lies within the jurisdictional limits of the county. A sexual offender or sexual predator, having a permanent residence within 1,000 feet of any school, day care center, park or playground, does not commit a violation of this section if any of the following apply:

- (1) The sexual offender or sexual predator established the permanent residence in the specific dwelling in question prior to the effective date of this article.
- (2) The sexual offender or sexual predator was a minor when committing the offense causing the designation as a sexual predator or sexual offender and was not sentenced as an adult for that offense.
- (3) The school, day care center, park or playground was opened or established after the sexual offender or sexual predator established the permanent residence.

(b) *Restriction of certain activities of sexual offenders and sexual predators.* No sexual offender or sexual predator shall enter into or remain within the 1,000-foot buffer zone surrounding any school, daycare center, park or playground except to:

- (1) Attend a scheduled interview or meeting with a social service provider licensed by the state; STATE VS NORMAN STEPHEN THOMAS 05-2018-CF-010385-AXXX-XX
- (2) Comply with a request or court order from the judiciary, a correctional facility or a law

sexual offenders or sexual predators will not be permitted to remain at general shelters not designated to house them. Sexual offenders and sexual predators will only be permitted housing at shelters specifically approved to house sexual offenders and sexual predators.

- (2) A sexual offender or sexual predator attending any school or transporting children they have legal custody of to a school or day care center must declare his or her status as a sexual offender or sexual predator to the school or day care center principal or designee prior to entering the school or day care center property, and must also either schedule with the principal a set time period to enter upon the property or immediately notify the principal or designee upon entering school grounds or day care center property.
 - (3) All sexual offenders and sexual predators registered in the county shall carry their state driver's license or state identification card on their person at all times.
- (f) *Prohibition on rentals and leaseholds.* It is unlawful for a property owner to knowingly let or rent any place, structure, or part thereof, to a sexual offender or sexual predator, with the knowledge that it will be used as a permanent or temporary residence, if such place, structure, or part thereof, is located within 1,000 feet of any school, day care center, park or playground. In any prosecution for a violation of this section there shall be the following rebuttable presumptions:
- (1) That the property owner had knowledge that the person letting or renting the premises was a sexual offender or sexual predator, upon proof that the person was registered as same, either in the statewide or local registry; and
 - (2) That the place, structure or part thereof would be used as a permanent or temporary residence, upon proof that the property is located within a residential zoning classification.
- (g) *Unlawful residency.* It is unlawful for a sexual offender or sexual predator to establish residency, whether through ownership, rental or lease after the effective date of this article, if such place, structure, or part thereof, is located within 1,000 feet of any school, day care center, park or playground.