

8/16/05

**DECLARATION OF RESTRICTIONS**

THIS DECLARATION OF RESTRICTIONS, made this 16<sup>th</sup> day of August 2005, by MIDDLETOWN TOWNSHIP, A Home Rule Municipality, Delaware County, Pennsylvania (Middletown).

**BACKGROUND**

Middletown is the owner of a Parcel of Land in Middletown, by virtue of a Special Warranty Deed, a legal description of which is attached hereto, made a part hereof, and marked Exhibit "A" and by virtue of a Quit-Claim Deed, a legal description of which is attached hereto, made a part hereof, and marked Exhibit "B" (The Property).

Middletown acquired title to the Property by Special Warranty Deed from I. R. Smedley & Co., a Limited Partnership, dated August 16, 2005, recorded in the Office of the Recorder of Deeds of Delaware County, in Volume \_\_\_\_\_, Page \_\_\_\_\_ et seq and by a Quit-Claim Deed dated August 16, 2005, recorded in the office of the Recorder of Deeds of Delaware County, in Volume \_\_\_\_\_, Page \_\_\_\_\_ et seq (The Smedley Deeds).

The legal description in the Special Warranty Deed (Exhibit "A") is the same legal description contained in the Deed to I. R. Smedley and Co., a Limited Partnership, dated November 27, 1969 and recorded in the Office of the Recorder

of Deeds of Delaware County, in Deed Book 2358, Page 964, I. R. Smedley and Co. having changed its name to I. R. Smedley & Co.

The legal description in the Quit-Claim Deed (Exhibit "B") is the legal description based on a Boundary Plan of Property for "Township of Middletown", prepared by G. D. Houtman & Son dated February 22, 2005, as last revised August 3, 2005 (The Boundary Plan). The Boundary Plan is attached hereto, made a part hereof, and marked Exhibit "C".

Middletown acquired the Property pursuant to the terms of an Agreement of Sale dated February 22, 2005. The Agreement of Sale provides that Middletown will execute a Declaration of Restrictions placing various restrictions upon various portions of the Property at the time of Closing. Closing is of even date herewith, thus this Declaration of Restrictions.

NOW THEREFORE, Middletown, intending to be legally bound hereby, does hereby declare:

1. There are four houses, a garage, two barns, a Communications Tower, a main access road (the Main Access Road) and an access road to the Communications Tower (the Communications Tower Access Road), as shown on the Boundary Plan, together with utility lines, including but not limited to sanitary sewer lines (The Utility Lines). The house designated as 746 Rose Tree Road has a garage appurtenant thereto, as shown on the Boundary Plan. The four houses on the Property and the immediate area surrounding each of the four houses, including the garage for Premises 746 Rose Tree Road, will continue to be used as single family dwellings. The Main Access Road shall continue to serve three

of the four houses, the garage, the two barns and as an entrance and exit to the Communications Tower Access Road. The Main Access Road and Communications Tower Road, with extensions thereto, may also be used to serve Field Area "A" and Field Area "B" hereinafter identified. The four houses, garage and two barns on the Property will not be expanded; provided, however, Middletown shall have the right to demolish any one or more or all of the four houses, the garage and either or both of the barns and re-build any one or more of the houses, the garage or the barns within the existing foot prints of the houses, the garage or the barns and install new Utility Lines.

2. The two barns on the Property and the immediate areas surrounding the barns are restricted to the following uses and no other:

- A. Storage of field maintenance equipment and supplies.
- B. Storage of sports equipment.
- C. Bathrooms.
- D. Park Offices.
- E. Meeting area for classes, special programs and events etc.
- F. Arts and Crafts workshop and gallery area.
- G. Kitchen/food service area to support building and outdoor activities related to the Property.
- H. Nature or historical interpretive display area.
- I. Sales area for educational or community items associated with the property use.
- J. Community Center but not including indoor athletic facilities.

- K. Shower/Locker facilities for staff but not for athletic teams.**
- L. Library.**
- m. Utility Lines.**

**3. The Communications Tower on the Property has an area of  $\pm$  2,479 S.F. surrounding the Communications Tower and The Communications Tower Access Road which intersects with the Main Access Road, all as shown on the Boundary Plan (the Communications Tower and Appurtenances). The Communications Tower and Appurtenances are restricted to use as a Communications Tower and Appurtenances, provided, however, Middletown shall have the right to remove the Communications Tower after January 1, 2006 and replace it with another Communications Tower at the same location.**

**4. There are two areas of proposed recreation playing fields on the Property. The two areas of recreation playing fields are designated Field Area "A" and Field Area "B", as shown on the Boundary Plan.**

**A legal description of Field Area "A", consisting of  $\pm$  10 acres, is attached hereto, made a part hereof, and marked Exhibit "D". A legal description of Field Area "B", consisting of  $\pm$  11.1 acres, is attached hereto, made a part hereof, and marked Exhibit "E". Field Area "A" and Field Area "B" are hereby restricted to and for the following purposes and no other:**

- A. Active recreation playing fields not containing any stands, lights or structures of any kind, other than temporary goals and team benches which will be removed and stored daily, Parking Area or Areas and driveway access thereto with appropriate safety lights and bathroom facilities related to the recreation playing fields within the houses or barns and Utility Lines. The Parking Area or Areas will be landscaped with a minimum of six (6) foot high evergreen**

trees, at the time of planting, to act as a visual screen from the Smedley/Penncrest Farm House and/or Crest Cottage located on the North side of Rose Tree Road. The parking areas shall not exceed 3 acres.

5. Excepting Field Area "A", Field Area "B", the four houses, garage, two barns, the Main Access Road, the Communications Tower and Appurtenances, and extensions of the Main Access Road and Communications Tower Access Road to Field Area "A" and Field Area "B" and the immediate areas surrounding the houses, garage and barns and existing and future Utility Lines, the remaining area of the Property is hereby restricted to, and for the following uses and no other:

- A. Open Space, preservation and maintenance of the land, water, trees and vegetation.
- B. Passive recreational and educational purposes, limited to walking, hiking, jogging, cross-country skiing and nature study.

6. The above restrictions shall run with the Property and shall not be modified, amended or rescinded while Walter Smedley, Jr., his spouse or any of their presently living descendants listed on Exhibit "F" attached hereto and made a part hereof, reside in property across Rose Tree Road from the Property known as Penncrest Farm and/or Crest Cottage and thereafter only if such amendment or rescission is authorized by an affirmative vote of seventy percent of the persons voting at a special, primary or general election held in Middletown, wherein a ballot question shall precisely describe the proposed modification, amendment or rescission.

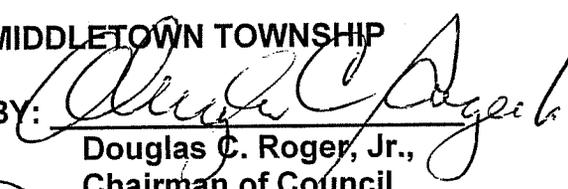
7. This Declaration shall be binding upon Middletown, its successors and assigns.

8. This Declaration shall be governed by the laws of the Commonwealth of Pennsylvania.

MIDDLETOWN, intending to be legally bound hereby, has caused this Declaration to be executed the day and year above written.

MIDDLETOWN TOWNSHIP

BY:

  
Douglas C. Roger, Jr.,  
Chairman of Council

ATTEST:

  
W. Bruce Clark,  
Township Manager

COMMONWEALTH OF PENNSYLVANIA :  
: SS  
COUNTY OF DELAWARE :

On the *16<sup>th</sup>* day of *August* A.D. 2005, before me, a Notary Public,

the undersigned Officer, personally appeared DOUGLAS C. ROGER, JR. and W. BRUCE CLARK, who acknowledged themselves to be Council Chairman and Township Manager of Middletown Township, the party named in the foregoing Declaration of Covenants and Restrictions, and that they as such Officers, being authorized to do so, executed the foregoing Declaration of Covenants and Restrictions for the purposes therein contained and desire the same be recorded as such.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

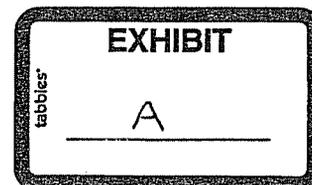
*Frances R. Pearson*  
\_\_\_\_\_  
Notary Public

Notarial Seal  
Frances R. Pearson, Notary Public  
Nether Providence Twp., Delaware County  
My Commission Expires Dec. 3, 2006  
Member, Pennsylvania Association Of Notaries

ALL THAT CERTAIN tract or parcel of land with the buildings and improvements thereon erected, Situate in the Township of Middletown, County of Delaware and State of Pennsylvania and described according to a Plan of Property of Ida R. S. Balderston, made by G. D. Houtman and Son, Civil Engineers, Media, Pennsylvania, as follows:-

BEGINNING at the point formed by the intersection of the center line of Rose Tree Road (33 feet wide) with the Northerly side of Middletown Road (33 feet wide); thence extending from said beginning point along the center line of Rose Tree Road the four following courses and distances: (1) North 53 degrees East 569.08 feet to a point; (2) North 53 degrees 42 minutes East 1,279.58 feet to a point; (3) North 28 degrees 37 minutes East 253.44 feet to a stone; and (4) North 56 degrees East 250.14 feet to a point; thence leaving said Rose Tree Road and extending along line of lands now or late of G. W. Patchell the two following courses and distances: (1) South 52 degrees 45 minutes East 1,501.50 feet to a stone; and (2) North 44 degrees East 1,221 feet to a point; thence extending South 39 degrees East along line of lands now or late of Waldo M. Claflin, 504.24 feet to a stone; thence extending South 54 degrees 30 minutes West along line of lands now or late of J. Louis Moore and Edgar C. Lyons 2,656.50 feet to a stone; thence extending along line of lands now or late of George McCall the two following courses and distances: (1) North 34 degrees 45 minutes West 896.28 feet to a stone; and (2) South 53 degrees 45 minutes West 823.68 feet to a stone on the Northeasterly side of Middletown Road (33 feet wide); thence extending along the same North 58 degrees 30 minutes West 706.20 feet to a point, an angle; thence extending along the Northerly side of Middletown Road, aforesaid, South 83 degrees West 242.22 feet to the first mentioned point and place of beginning.

27-00-02452-00

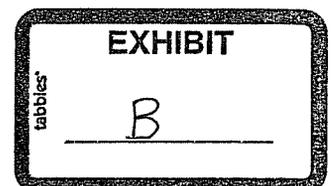


March 18, 2005

LEGAL DESCRIPTION for the Township of Middletown.

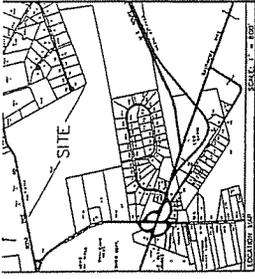
ALL THAT CERTAIN parcel of ground SITUATE in the Township of Middletown, County of Delaware and Commonwealth of Pennsylvania described according to a Boundary Plan of Property for Township of Middletown prepared by G. D. Houtman & Son, Inc., Civil Engineers and Land Surveyors dated February 22, 2005 last revised March 14, 2005, as follows:

BEGINNING at a point of intersection of the southwesterly property line of Nicolas A. Golato Jr., with the southeasterly right-of-way line of Rose Tree Road (SR 4002 - 33 feet wide); the said point being measured 17.48 feet South 51 degrees 59 minutes 26 seconds East from a point on the centerline of Rose Tree Road; the last mentioned point being corner of lands of Nicolas A. Golato Jr; thence from the point of beginning and along lands of Nicolas A. Golato Jr and along lands of David H. C. and Dorothy Millner and crossing over a found iron pipe South 51 degrees 59 minutes 26 seconds East 614.83 feet to a found stone; thence along lands of David H. C. and Dorothy Millner South 51 degrees 42 minutes 00 seconds East 357.44 feet to a found pipe; thence along lands of Charles S. McFall and along lands of Michael L & Barbara A. Laurenzi and crossing the terminus of Lantern Lane (50 feet wide) South 52 degrees 27 minutes 26 seconds East 515.50 feet to a found stone; thence along lands of various owners and crossing the terminus of Spring Run (a paper street 50 feet wide) North 45 degrees 41 minutes 04 seconds East 1,227.15 feet to a set pipe; thence along lands of Stephen K. Pahides and crossing a twenty feet wide sanitary sewer easement South 36 degrees 57 minutes 41 seconds East 494.75 feet to a found monument; thence along lands of various owners and crossing the terminus of a future right-of-way (50 feet wide) South 54 degrees 30 minutes 00 seconds West 1,543.55 feet to a found stone; thence along lands of various owners and crossing the terminus of Penn Charter (50 feet wide) South 54 degrees 30 minutes 00 seconds West 1,144.55 feet to a found monument;



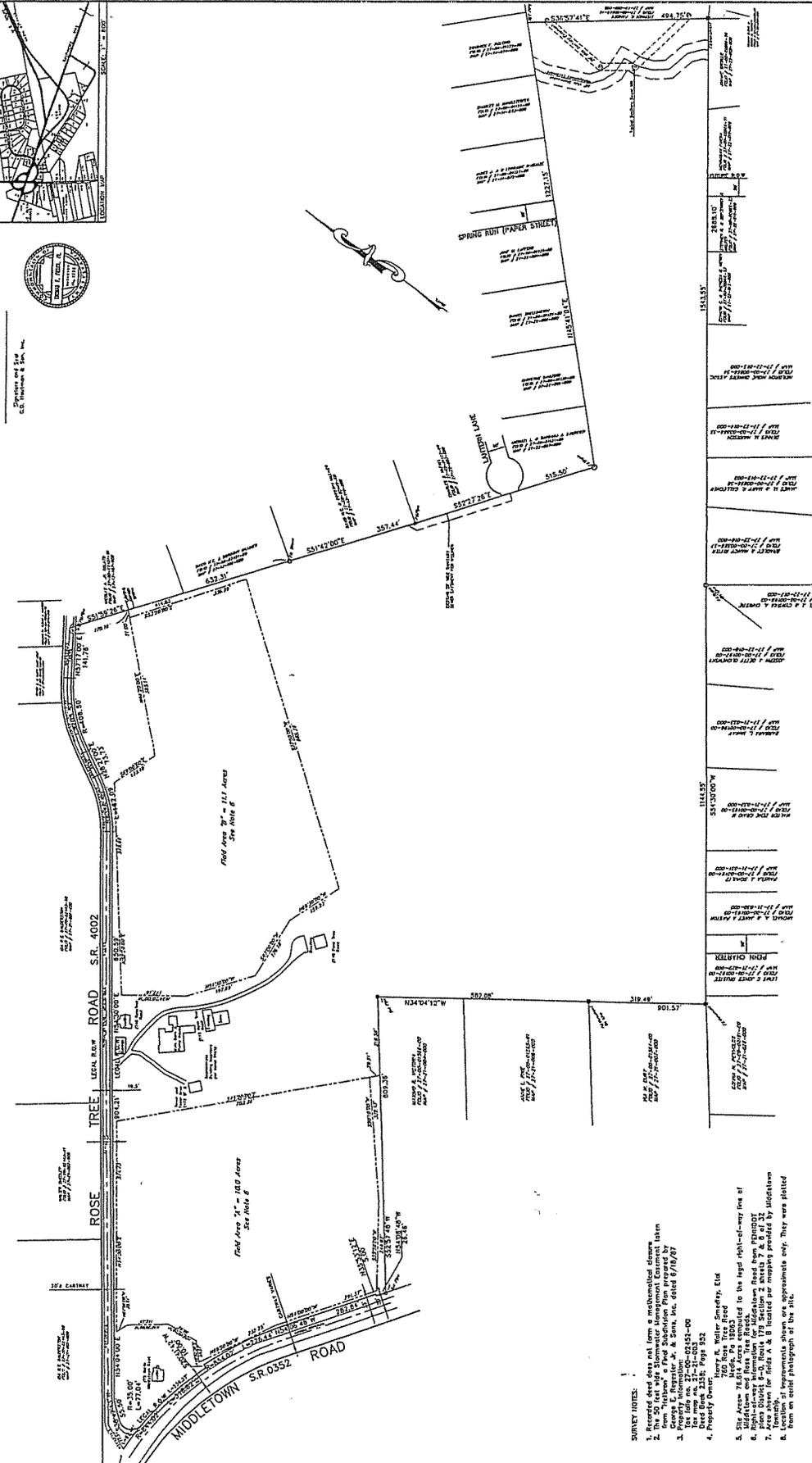
thence along lands of Ira M. Dury North 34 degrees 04 minutes 12 seconds West 319.49 feet to a found monument; thence along lands of Anne L. Pike and along lands of Maximo R. Victoria North 34 degrees 04 minutes 12 seconds West 582.08 feet to a set pipe; thence along lands of Maximo R. Victoria South 52 degrees 57 minutes 48 seconds West 809.36 feet to a set pipe on the northeasterly right-of-way line of Middletown Road (SR 0352 - of varying widths); thence along the said right-of-way line of Middletown Road the six (6) following courses and distances: (1) North 54 degrees 06 minutes 48 seconds West 26.46 feet to a point (2) North 35 degrees 53 minutes 12 seconds East 5.00 feet to a point (3) North 54 degrees 06 minutes 48 seconds West 282.84 feet to a point of curve (4) along an arc of a circle to the left of radius 854.02 feet an arc distance of 226.44 feet to a point (5) South 20 degrees 41 minutes 42 seconds West 10.00 feet to a point of curve and (6) along an arc of a circle to the left of radius 844.02 feet an arc distance of 236.37 feet to a point of reverse curve; thence along an arc of a circle to the right of radius 35.00 feet an arc distance of 77.04 feet to a point of tangency on the southeasterly right-of-way line of Rose Tree Road; thence along the same the seven (7) following courses and distances: (1) North 38 degrees 47 minutes 13 seconds East 55.50 feet to a point (2) North 54 degrees 04 minutes 00 seconds East 904.21 feet to a point (3) North 54 degrees 30 minutes 00 seconds East 650.59 feet to a point of curve (4) along an arc of a circle to the left of radius 356.50 feet an arc distance of 162.09 feet to a point of tangency (5) North 28 degrees 27 minutes 00 seconds East 73.73 feet to a point of curve (6) along an arc of a circle to the right of radius 408.50 feet an arc distance of 205.57 feet to a point of tangency and (7) North 57 degrees 17 minutes 00 seconds East 141.76 feet to the first mentioned point and place of beginning.

CONTAINING 76.614 Acres.

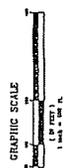


NOTICE: This plan is prepared by the Surveyor General of the State of Delaware. It is subject to the provisions of the Delaware Code, Title 21, Chapter 10, and the provisions of the Delaware Code, Title 21, Chapter 11, which relate to the practice of the Surveying Profession and to the Surveying Profession Act of 1981, as amended. The Surveyor General is not responsible for the accuracy of the information shown on this plan, nor for the accuracy of the information shown on any other plan prepared by the Surveyor General or any other person.

Prepared and Drawn by  
C. J. HARRIS & SONS, INC.



BOUNDARY PLAN OF PROPERTY FOR	
TOWNSHIP OF MIDDLETOWN	
DELAWARE COUNTY, PENNSYLVANIA	
G.D. HODMAN & SONS, INC.	
ON DEPARTMENT OF LAND AND WATER	
DATE: 11/11/2003	
SHEET NO. 1 OF 1	
SCALE: 1" = 100'	
DATE: February 23, 2003	
<p>APPROVED:</p> <p>Surveyor General of the State of Delaware</p>	<p>APPROVED:</p> <p>C. J. Harris &amp; Sons, Inc.</p>
<p>APPROVED:</p> <p>G.D. Hodman &amp; Sons, Inc.</p>	<p>APPROVED:</p> <p>Surveyor General of the State of Delaware</p>



- SURVEY NOTES:**
1. Recorded deed does not form a mathematical closure.
  2. The 50 feet wide Stormwater Management Encasement Laken is shown as a dashed line.
  3. Property Information: G.D. Hodman & Sons, Inc. 60141 8/18/03. Fee map no. 21-003.
  4. Property Owner: G.D. Hodman & Sons, Inc.
  5. Site Area: 78.60 acres, as shown on the legal right-of-way area of Middletown and Rose Tree Roads.
  6. Survey conducted by G.D. Hodman & Sons, Inc. on 11/11/2003.
  7. Township for files A & B located per mapping provided by Middletown.
  8. Location of other photographs of this site.

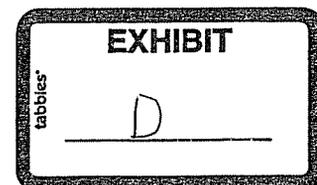
July 19, 2005

LEGAL DESCRIPTION OF Field Area "A" for Middletown Township.

ALL THAT CERTAIN parcel of ground SITUATE in the Township of Middletown, County of Delaware and Commonwealth of Pennsylvania described according to a Boundary Plan of Property for Township of Middletown prepared by G. D. Houtmann & Son, Inc., Civil Engineers and Land Surveyors dated February 22, 2005 last revised March 14, 2005, as follows:

BEGINNING at an interior point; the said point being measured 29.21 feet North 45 degrees 20 minutes 00 seconds West from a point along lands now or late of Maximo R. Victoria; The last mentioned point being measured along lands of Maximo R. Victoria 244.07 feet North 52 degrees 57 minutes 48 seconds East from a set pipe on the Northeasterly right-of-way line of Middletown Road (S.R. 0352/of varying widths); thence from the point of beginning South 50 degrees 10 minutes 00 seconds West 339.13 feet to a point; thence South 55 degrees 50 minutes 00 seconds West 244.07 feet to a point; thence North 54 degrees 00 minutes 00 seconds West 291.37 feet to a point; thence North 60 degrees 50 minutes 00 seconds West 232.25 feet to a point; thence North 45 degrees 50 minutes 30 seconds East 59.27 feet to a point; thence North 5 degrees 00 minutes 00 seconds West 86.95 feet to a point; thence North 36 degrees 30 minutes 00 seconds West 112.33 feet to a point; thence North 67 degrees 00 minutes 00 seconds West 35.81 feet to a point; thence North 54 degrees 30 minutes 00 seconds East 571.73 feet to a point; thence South 45 degrees 20 minutes 00 seconds East 703.36 feet to the first mentioned point in place of beginning.

Being known as Field Area "A" containing 10.0 acres.



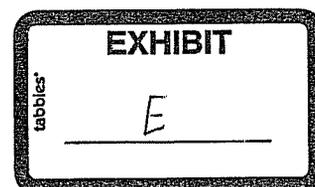
July 19, 2005

LEGAL DESCRIPTION OF Field Area "B" for Middletown Township.

ALL THAT CERTAIN parcel of ground SITUATE in the Township of Middletown, County of Delaware and Commonwealth of Pennsylvania described according to a Boundary Plan of Property for Township of Middletown prepared by G. D. Houtmann & Son, Inc., Civil Engineers and Land Surveyors dated February 22, 2005 last revised March 14, 2005, as follows:

BEGINNING at an interior point; the said point being measured at 21.00 feet South 44 degrees 20 minutes 00 seconds West from a point along lands now or late of Nicolas A. Golato Jr.; the said point being measured along lands of Nicola A. Golato Jr. 170.16 feet South 51 degrees 59 minutes 26 seconds East from a point on the center line of Rose Tree Road (S.R. 4002/33 feet wide); The last mentioned point being corner lands of Nicolas A. Golato Jr.; thence from the point of beginning South 53 degrees 20 minutes 00 seconds East 336.29 feet to a point; thence South 37 degrees 50 minutes 00 seconds West 886.39 feet to a point; thence North 68 degrees 30 minutes 00 seconds West 159.22 feet to a point; thence South 87 degrees 00 minutes 00 seconds West 176.18 feet to a point; thence North 51 degrees 30 minutes 00 seconds West 197.69 feet to a point; thence North 34 degrees 20 minutes 00 seconds West 177.16 feet to a point; thence North 52 degrees 20 minutes 00 seconds East 579.89 feet to a point; thence South 69 degrees 00 minutes 00 seconds East 133.10 feet to a point; thence North 44 degrees 20 minutes 00 seconds East 385.14 to the first mentioned point in place of beginning.

Being known as Field Area "B" containing 11.1 acres.



List of Smedley Descendants Who Might Live in the House known as Penncrest Farm and/or Crest Cottage.

1. Walter Smedley, Jr. and his spouse.
2. Walter Smedley III and his spouse.
3. Walter Smedley IV and his spouse.
4. Rebecca Smedley and her spouse.
5. Sarah Jane Smedley and her spouse.
6. Stephanie Smedley Scanga and her spouse.

