PPA Testimony to the Pinelands Commission
May 7, 2009
By Russell Juelg

Re: Application # 2005-0041.002

In reference to the proposed paving of Cedar Drive, Prince Street, Laurel Lane and Oak Lane in Woodland Township:

First, there is no necessity for this project. Any representations about public safety issues are unfounded, so far we know, and therefore evidently mere rhetoric.

Secondly, the representation has been that there was no need for a thorough rare plant survey. Our review of the habitat assessment and studies by the applicant related to T&E species confirms that rare plant survey work was indeed cursory. The specific search list was limited to one plant, Pine Barrens Gentian, and while the survey for this plant would seem to have been done reliably, the protocol used would have been quite inadequate for determining the presence of a great many other T&E plant species that are likely to be found on the road shoulders. Staff has indicated this was acceptable, because there is to be no impact to anything except the current cartway. On the other hand, multiple lists of species to be used in replanting have been circulated. The first list we saw in a letter to the applicant is different from the list we found when we reviewed the plans. The most recent list is a huge improvement over either of these lists, and we thank the staff for making that revision. But the question still remains, if only the cartway is to be affected, thus relieving the need to thoroughly survey for rare plants, where will the applicant sow those seeds?

Finally, the proposed development does not comply with the T&E species provision of your regulations. For one thing, as we discovered in reports furnished to the Commission by the applicant’s consultant, there are actually three snake species involved, not just Pine Snake, but also Timber Rattlesnake and Corn Snake. The issue is that it is impossible for anyone to logically conclude that this proposed paving does not introduce a permanent adverse impact to one or more of the populations of T&E species that are liable to be impacted. Black-topped roads get warmer and stay warm longer than do sand or gravel roads. Black-topped roads tend to get more traffic and faster traffic than do sand or gravel roads. Whether or not anyone has systematically documented these observations in scientific literature, to assert against them would require unfounded assumptions, and arguments against observable facts.

Now, consider that reptiles are attracted to warm surfaces, especially when they need that warmth to digest their meals. Female Rattlesnakes have an additional motivation. They incubate their eggs inside their bodies.
If you pave three miles of sand or gravel roads in snake habitat, in all likelihood, snake mortality rates will go up. More snakes on the roads. More cars on the roads. Faster cars on the roads. It’s undeniable. More snakes would get killed in such a situation, year after year.

And yet, the applicant is asking you to believe that his responsibility is fulfilled by keeping the snakes out of the construction area during construction. The staff is asking you to believe that even though they can’t deny that the mortality rate would go up, you can still find that the applicant is complying with your rule, because no one knows for sure what the rate of mortality would be on the roads paved versus unpaved. Notice, no one is saying that there are scientific studies that show that paving doesn’t introduce a permanent adverse impact. All anyone can do, apparently, is point out the lack of scientific literature that explicitly addresses the comparative rate of reptile mortality on roads paved versus unpaved. Please consider your rule: “No development shall be carried out unless it is designed to avoid irreversible adverse impacts...” It doesn’t say, “A development may be carried out unless someone can prove that there will be an irreversible adverse impact...” Nor does it say, “Developments may sometimes be carried out when there is doubt as to whether or not it represents a permanent adverse impact...” It says “No development may be carried out unless...”

In short, given what is easily observable in this situation (paved roads get warmer and stay warm longer), combined with common sense (paved roads get more snakes as well as more traffic and faster traffic), it is an unfounded assumption as well as an argument against the facts to assert that no irreversible adverse impacts would be introduced to the habitat if these roads get paved.

This proposed development does not comply with the T&E species provision of your regulations, and you are obligated to deny it.