

## MEMORANDUM

July 3, 2006

TO: Ad Hoc Agricultural Policy Working Group

FROM: Marlene Michaelson, Senior Legislative Analyst  
Jeff Zyontz, Council Analyst  
Amanda White, Council Legal Analyst

SUBJECT: July 10 Meeting

Our next meeting is scheduled to start at 4:00 P.M. on June 10, 2006. We will again meet in Room A at the Upcounty Regional Services Center. Attached are the background materials for this meeting. These include the following:

- an agenda;
- minutes from the June 26, 2006 meeting; and
- presentation materials.

The June 10 meeting will focus on two briefings topics: Transferable Development Rights (TDR) tracking and the economics of the Agriculture Reserve. The Council has asked that the Working Group address the technical issues associated with TDR tracking. The Group has asked for a briefing regarding the economics related to the Agriculture Reserve. The meeting will include short presentations by staff from Park and Planning and the Cooperative Extension Service. Group members should note that this meeting does not address specific policy issues for the Group to discuss, but presents an opportunity for the Group to comment on the briefing topics.

**AGENDA**  
**AD HOC AGRICULTURAL POLICY WORKING GROUP**

Monday, July 10, 2006  
Upcounty Regional Services Center  
4:00 to 5:30 p.m.

- 4:00      Review and Approval of June 26, 2006 Meeting Minutes
  
- 4:10      Briefing and Discussion– Transferable Development Rights Tracking (M-NCPPC Staff)
  
- 4:40      Briefing and Discussion – Economics Issues in Montgomery County (Staff from Maryland Cooperative Extension and M-NCPPC)
  
- 5:30      Adjourn

**AD HOC AGRICULTURAL POLICY  
WORKING GROUP MINUTES**

Monday, June 26, 2006

4:02 P.M. to 5:59 P.M.

Up-County Regional Services Center Room A

PRESENT

Working Group Members

Scott Fosler, Vice-Chair	Wade Butler
Jim Clifford	Nancy Dacek
Jane Evans	Robert Goldberg
Jim O'Connell	Michael Rubin
Pam Saul	Drew Stabler
Billy Willard	Wendy Perdue

Montgomery County and State Staff

Jeremy Criss, County Department of Economic Development	Justina Ferber, County Council
Marlene Michaelson, County Council	Callum Murray, M-NCPPC
Doug Tregoning, Montgomery Cooperative Extension	Amanda White, County Council
Jeff Zyontz, County Council	

ABSENT

Lib Tolbert, Chair	Bou Carlisle
Margaret Chasson	Tom Hoffmann

GUESTS

Councilmember Mike Knapp      Councilmember Nancy Floreen

The Group had before it the June 20, 2006 memorandum with attachments from Marlene Michaelson, Jeff Zyontz, and Amanda White.

The Group reviewed the minutes for the May 25 and June 12, 2006 meetings. Without objection, the Group approved the minutes for the May 25, 2006 meeting. One Group member suggested that the June 12 minutes refer to the broader phrase "technical tracking and use issues associated with the transferable development rights (TDR) program" instead of the shorter phrase "TDR tracking issues". There was no objection and the Group approved the June 12 minutes with that correction.

The Group discussed the issue of child lots, focusing on what the program should be and not what the intent of the program was at inception. Jeff Zyontz from Council staff gave a brief

overview of the issue. Wendy Perdue noted that there is a pending case before the Planning Board regarding child lots and therefore she would only be listening to the discussion and not participate in the discussion or any votes that were taken. **The Group made tentative decisions regarding the child lot program, and agreed to return to their decisions before the Group issues its final report to the County Council.**

Group members were given the opportunity to identify why child lots were important. Group members identified the following reasons:

- They allow children to farm with their parents on the family farm and allow the farmer to have children close to them for a period of time.
- They honor the 1981 contract with farmers and are a source of compensation for the loss of equity farmers experienced during the 1981 down-zoning of the Agriculture Reserve.
- Child lots are a means to preserve and promote agriculture.
- It is a measure of cooperative farming.
- It is a way for children to live (i.e., child lots are for all landowners, not just farmers).
- Need to retain a farmable acreage.
- It is existing policy. Changing that policy could create a land rush that would occur with a change in policy.
- A farmer should not have to choose between keeping children on the farm and money from sale of building lot.

The Group supported, **without objection**, the use of child lots and did not support eliminating child lots in the RDT zone. The Group agreed with Council staff in finding that the County Zoning Ordinance is unclear and therefore must be amended.

The Group **unanimously** supported the Planning Board interpretation that the maximum density of subdivisions with child lots should be one lot per child in addition to the density allowed in the RDT zone (one dwelling unit per 25 acres). Group members identified the following outstanding questions related to density and child lots in the Agriculture Reserve:

- whether there should be special requirements or limits for small lots.
- whether there should be a limit on the maximum size of a child lot.

Group members discussed a variety of options relating to improving the administration of the child lot program. The Group recommended modifying the County Zoning Ordinance and implementing the following:

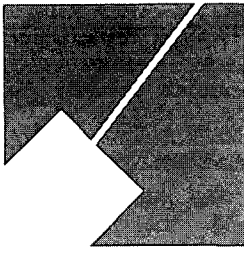
- The Group **unanimously** recommended that a child must own and/or occupy the child lot. However, at a future meeting, the Group will discuss whether this requirement should be ownership and occupancy or just ownership.
- The Group **unanimously** recommended codifying the Planning Board practice of requiring a property owner to submit an affidavit at subdivision stating that the child lot is to be used by the child and formalize the recent efforts to check at building permit that

- the property owner's child is using the lot. Some group members also recommended requiring a Title search at the time of subdivision to check for easement and ownership.
- The Group generally recommended requiring a child own the child lot for 5 years. Some Group members felt that if a housing structure is already on the property, the child must live in the housing structure for 5 years. These Group members also felt that if the lot is vacant and a house is later built on the lot, it must be for a child. Some Group members felt that the 5 year requirement should not begin until a child is 18 years old.
  - The Group **unanimously** opposed limiting the creation of child lots to farmers or owners of land in agricultural production. The Group recommended allowing any landowner who owned their property during the 1981 down-zoning to be allowed to create child lots, regardless of whether the land is in agricultural production.
  - The Group discussed the possibility of limiting the layout of child lots so that they did not interfere with land in agricultural production. The Group decided that this type of evaluation would be problematic. Some Group members suggested that additional guidance relating to the location of structures on the child lot may help prevent fragmentation. The Group agreed to revisit issues related to clustering. One Group members felt that the location of a structure of a lot should be the landowner's discretion. This issue will be revisited at a later meeting.
  - Some Group members felt that a landowner should be able to create a child lot after the owner's death, providing that there is an indication of the landowner's intent to create the lot (e.g., a letter or will). This issue will be revisited at a later meeting.
  - The Group **unanimously** opposed establishing a sunset date for the child lot provision. The Group felt that a natural sunset date exists for the child lot provision (i.e., when owners of land from the 1981 down-zoning either retire or pass away) and an arbitrary date was therefore unnecessary.
  - The Group **unanimously** supported clarifying that a landowner may only create one child lot for each child even if a landowner owns multiple properties.

In summary, the Group identified the following issues that will be revisited at a later meeting:

- Whether there should be special requirements or limits related to the maximum density for small lots.
- Whether there should be a limit on the maximum size of a child lot.
- Whether a child must own and occupy the child lot or whether ownership is the only requirement and whether it is feasible for the County government to enforce an occupancy requirement.
- Whether there should be additional requirements related to the location of a house on a child lot and/or clustering.
- Whether a child lot can be created after the death of a farmer who qualifies for the program.

Minutes written by: Amanda White, Council Legal Analyst



June 29, 2006

**Memorandum**

To: Ad Hoc Agricultural Policy Working Group

From: Karl Moritz, Chief, Research & Technology Center,  
Montgomery County Planning Department

Re: Presentations for July 10: "Tracking the Transferable Development Rights Program" and "The Agriculture Economy: Summary of County Statistics and Local Views."

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The Ad Hoc Agricultural Policy Working Group is scheduled to receive several briefings at its meeting on July 10, 2006. Two of these briefings will be presented by Park and Planning staff:

- **TDR Tracking:** Working group members will be briefed on how the Transferable development Rights program has been monitored and will learn the results of the most recent study. The County Council has allocated new resources to TDR tracking, so we will discuss how tracking is being improved, and what benefits improved tracking should yield.
- **Agriculture Economy:** At the request of the Planning Board, Park and Planning staff recently prepared a report on the County's agriculture economy. The report reviews statistics about the County's agriculture economy and discusses issues affecting the future of agriculture that were identified in interviews with farmers and "stakeholders."

In preparation for these briefings, please find attached the powerpoint slides that will be presented. In addition, Working Group members may wish to review material in your binders related to these topics. These include:

- *Pages 71-80 in the "Memoranda" section:* This memo from Matthew Greene dated August 30, 2005 summarizes the most recent study of the status of the TDR program.
- *Page 10 in the "Data" section:* This chart, entitled "TDR Receiving Capacity Deficiency 1988-2005" is consistent with the Matt Greene memo but provides additional data and a historical context. It was prepared by Jeremy Criss.
- *Pages 1-45 in the "Studies and Reports" section:* This is a "TDR Program Task Force Report" prepared by Judy Daniel of the Park and Planning staff

for the Planning Board. It reviews many of the important issues facing the TDR program, including improvements to TDR tracking system.

- *Pages 93 to 137 in the "Studies and Reports" section:* This is a copy of the Park and Planning report: "The Agriculture Economy: Summary of County Statistics and Local Views."

The Park and Planning briefings will be followed by a presentation by Doug Tregoning of the County Extension Service about the economic issues faced by individual farmers.

Staff anticipates that these briefings will stimulate discussion by Work Group members, which we expect will provide a helpful basis for discussions at upcoming meetings of the Work Group. Staff notes that the Work Group is scheduled to discuss TDR policy issues, and other pending legislation, at a future date.

# **Tracking TDRs**

Collecting and reporting TDR  
information for decision-making



## **Why we track TDRs**

- **To confirm validity in specific cases.**
- **To monitor program activity.**
- **To answer questions when plans or policies affecting TDRs are being considered.**
  - **Examples: Are additional receiving areas needed? What receiving areas have been the most effective?**
  - **Agree on the facts, so we can save the “debate” for the policy questions.**





## **Stages in the TDR process**

- **Landowner creates a TDR by easement.**
- **Landowner may sell TDR, using a deed of transfer.**
- **Developer submits preliminary plan of subdivision indicated TDRs will be used.**
- **Ultimate TDR use is indicated on plats.**

## **Latest study: August 2005**

- **Summarized TDR program status.**
- **Calculated number of TDRs from sending areas: maximum potential, created so far, held by public, and yet to be created.**
- **Receiving areas: maximum potential, remaining capacity, utilization rates, and future capacity needed.**

## Summary findings

### Sending

Total sending potential:	10,199
TDRs approved in development plans:	8,077
TDRs remaining to send:	2,122

Receiving	40%	60%	100%
TDRs remaining to send:	2,122	2,122	2,122
Remaining receiving capacity:	818	1,023	1,228
Future capacity needed:	1,304	1,099	894



## Tracking issues

- **August 2005 study was summary approach; goal is comprehensive database.**
  - Tracking each TDR, parcel from creation to final use.
  - Alert officials to TDR status when parcels are subject of land use changes: master plans, ZTAs, subdivision.
  - Answer broader questions when TDR program changes are considered.



## **Tracking issues II**

- **Staying up-to-date**
  - Master plans adopted, changing receiving areas.
  - Annexations.
  - TDRs are created and/or sold.
  - Subdivision plans are submitted proposing use of TDRs.
  - Plats are recorded showing TDRs were used.
- **Improving historical data: tying all TDRs to sending and receiving parcel.**

## **Tracking issues III**

- **Coordination/Transparency**
  - TDRs are handled and monitored by several government agencies; all supply key information, all should agree on facts.
  - Making results and assumptions/methods public allows them to be challenged, improved. Up-to-date reports should be easy for public to access & digest.
  - Would not confer rights; status of specific parcels should be confirmed.

## **Resources**

- **Council funded temporary staff position to compile historical data**
- **M-NCPPC/Research & Technology Center would maintain database in partnership with County Attorney's Office, Department of Economic Development, and other agencies.**
- **Database, GIS, and web tools can be deployed to improve accuracy and accessibility.**

## **Implementation timetable**

- **Summer 2006:**
  - **Hire authorized staff**
  - **Update August 2005 summary report**
  - **Launch interagency coordinating committee to review and affirm technical issues such as:**
    - **Methodology, assumptions, and sources.**
    - **Database structure and systems features for information storage, retrieval and display.**
    - **Points in the regulatory, planning, and policy development process when database should be queried or updated.**

## **Implementation timetable**

- **Fall 2006:**
  - Finalize technical issues; distribute.
  - Review existing TDR tracking data for accuracy, make any changes if needed.
  - Begin land records research to complete matching of created TDRs to their “sending” parcel.
  - Update ad Hoc Agricultural Policy Working Group on progress.



## **Implementation timetable**

- **Spring 2007:**
  - Continue convening interagency coordinating committee to review progress.
  - Complete matching of created TDRs to their “sending” parcel.
  - Complete matching of used TDRs to subdivisions and/or record plats.
  - Examine early summary results.
  - Develop and test user interface.

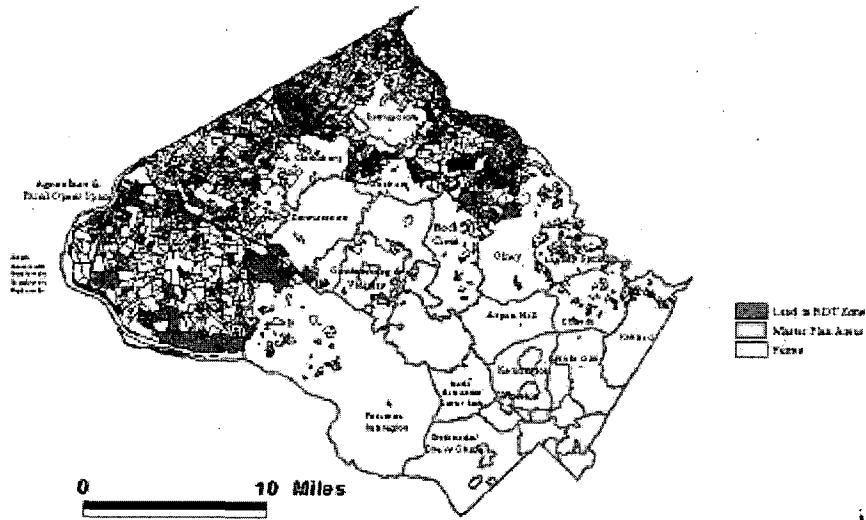


## Implementation timetable

- **Summer 2007:**
  - Complete compiling remaining historical data.
  - Finalize user interface.
  - Establish policies, procedures for use.
  - Issue updated report for 2007



## MONTGOMERY COUNTY FARMS AND RDT-ZONED LAND



## Demographics of Rural Montgomery County

- Households: 38,000
- Average Age: 35
- Race/ethnicity: 90% White
- Education: 21% of the 25+ population hold advanced degrees
- Median Household Income (2002): \$99,490

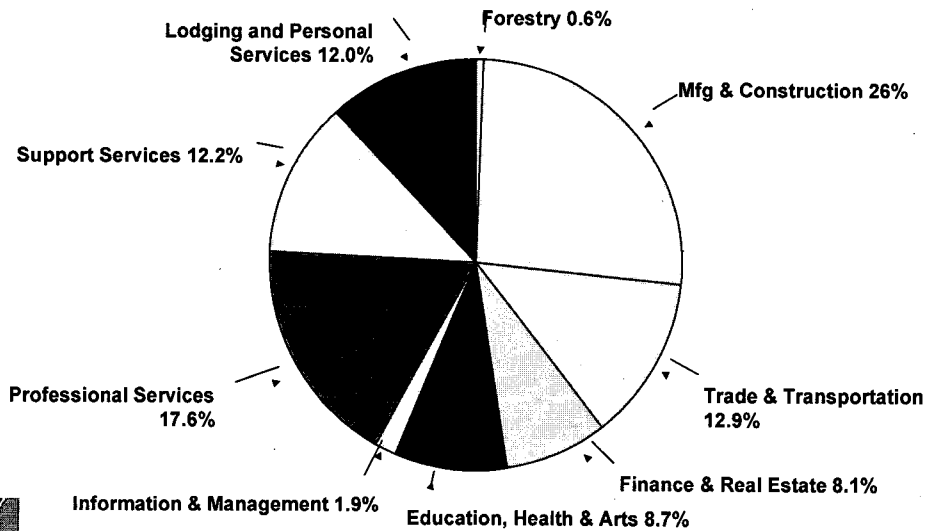
Nine large communities in Rural Montgomery County: Barnesville, Bealesville, Brookeville, Boyds, Damascus, Dickerson, Hyattstown, Laytonsville, and Poolesville

## 2003 Rural Economic Base

<b>Number of Farms</b>	<b>388</b>
<b>Number of Non-Farm Establishments</b>	<b>1,124</b>
<b>Employment in Non-Farm Establishments</b>	<b>8,988</b>
<b>Annual Wages in Non-Farm Establishments</b>	<b>\$272,091,000</b>

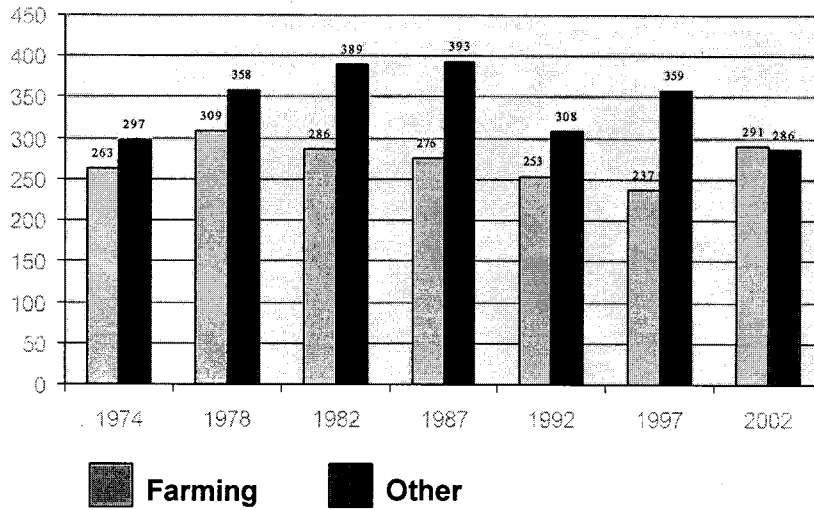


## Composition of the rural non-farm economy

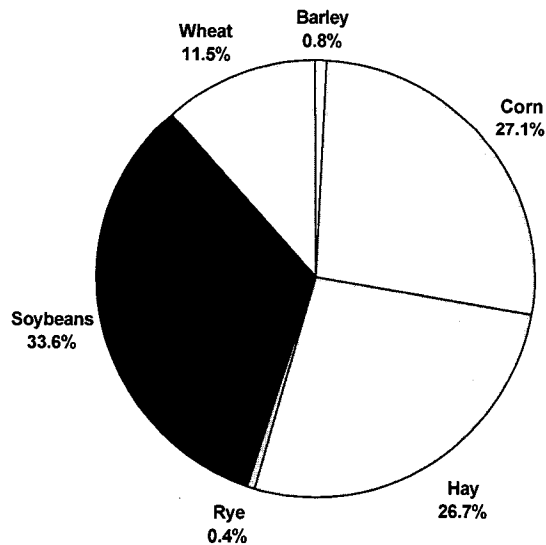




## Occupation of Montgomery County Farm Operators (1979 – 2002)



## Type of traditional crops by acreage

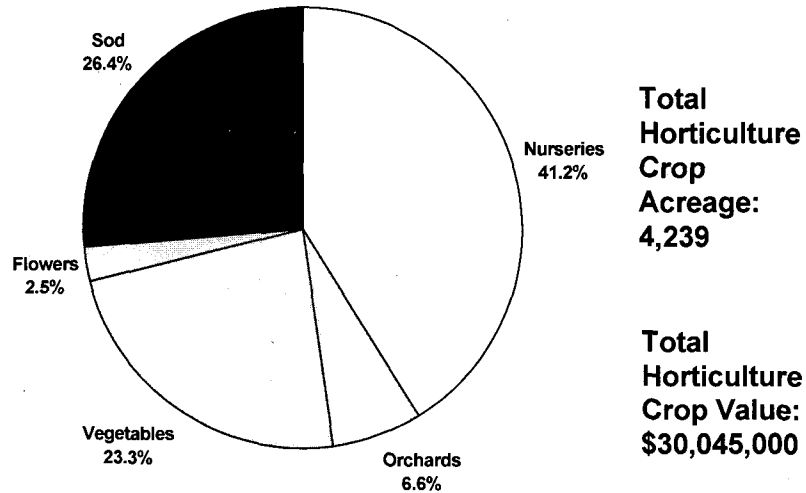


Total  
Traditional  
Crop  
Acreage:  
41,149

Total  
Traditional  
Crop Value:  
\$6,194,000



## Type of horticulture crops by acreage



## Objectives of report

- Educate the public on the County's farm economy and issues surrounding the nationally recognized agriculture reserve
- Serve as a support document in the master planning and policy review process for the rural and agricultural parts of the County.

## **Primary and secondary sources**

- Interviews with farmers, university researchers, agriculture extension agents, and planners.
- Research studies, and news articles particularly in the Montgomery County Gazette and Washington Post
- Statistics from the USDA's online National Agriculture Statistics Service

## **Voices we heard**

"Montgomery County's Agriculture Reserve is to the Washington DC region what Central Park is to New York. It is a cultural resource."

"Agriculture adds to the County economy. It certainly does not fuel the economy like the I-270 corridor."

"There are 100 "multi-generational" farm families in the County. At least one person from those families will continue in farming

"Traditional farming is dying in Montgomery County. The future is in niche markets: cut flowers, pick-your-own produce, horse operations, and ethnic vegetables."

"There is no money to be made in farming given the way Park & Planning has things set up. They can diminish a farmer's equity with the stroke of a pen."

## **Interviews: What are strengths?**

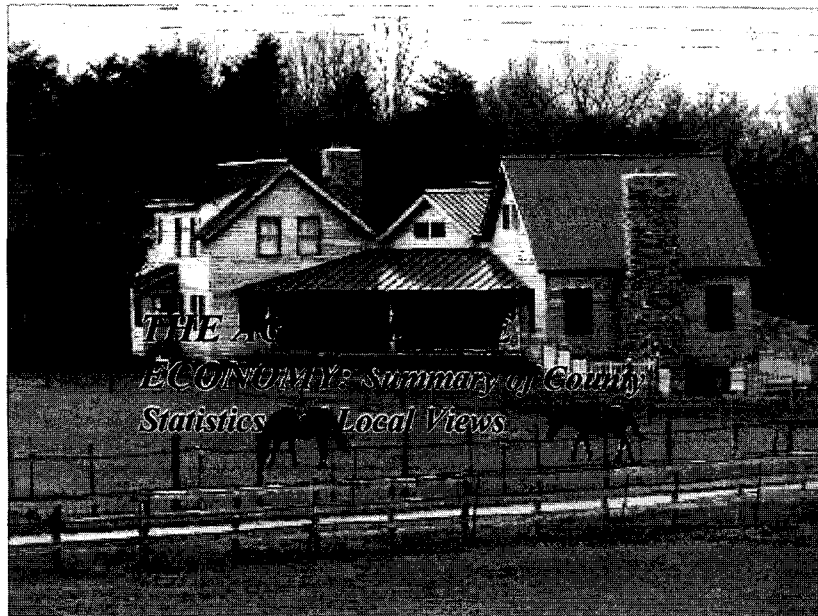
- **The most acres under easement.**
- **An affluent citizenry.**
- **Farmer's markets.**
- **Supportive County Extension and Agriculture Service.**
- **Established equine industry.**
- **A leading horticulture industry.**
- **Growing produce sector.**

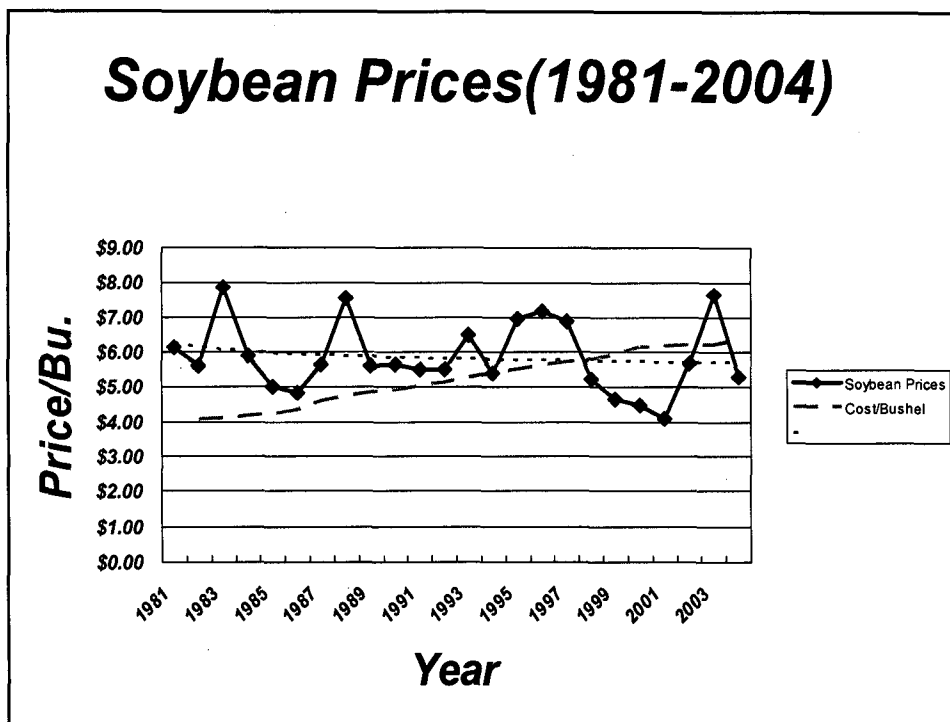
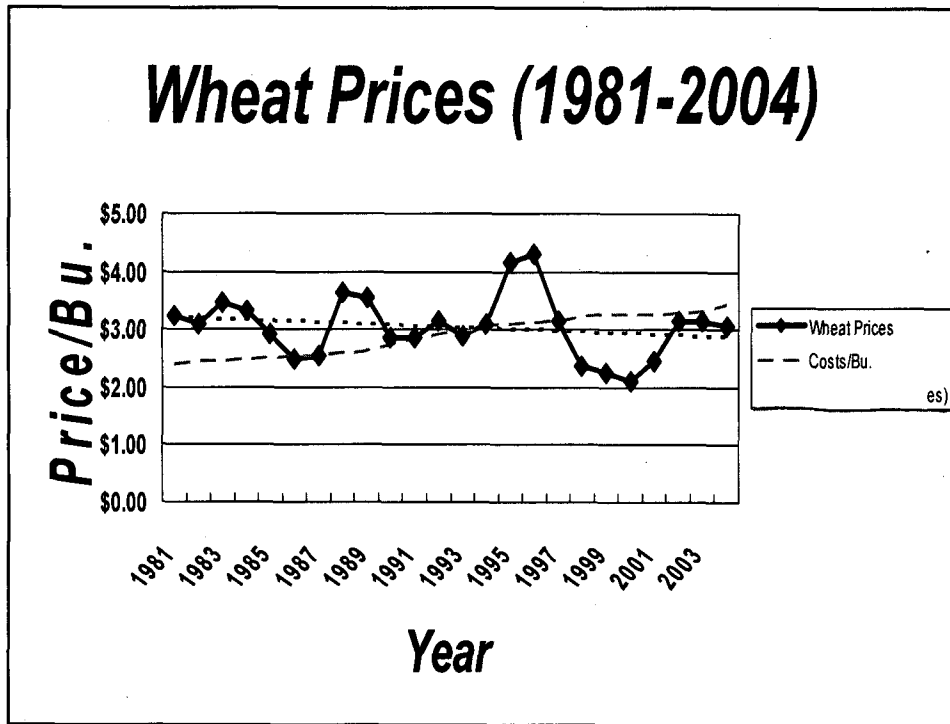
## **Interviews: What are threats?**

- **Development pressures**
- **Availability of labor**
- **Equity**

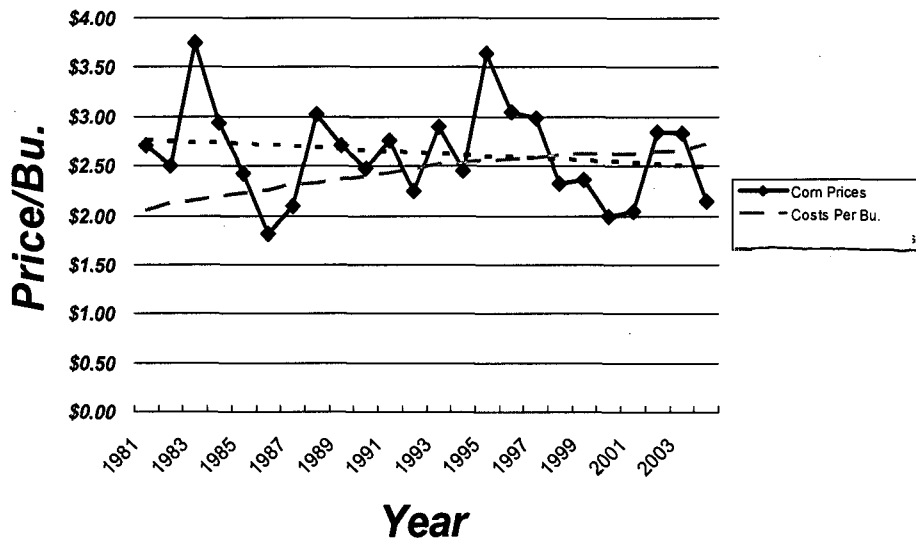
## Interviews: What are opportunities?

- Bio-engineered crops
- Bio-fuel/bio-diesel production
- Composting
- Ethnic vegetables/boutique crops
- Organic farming
- Community-supported agriculture





# Corn Prices(1981-2004)



No Till Field Corn--125 bu./acre				
<u>Input Costs</u>	<u>Delaware</u>	<u>Pennsylvania</u>	<u>Virginia</u>	<u>Montgomery Co. Costs</u>
Seed	\$27.50	\$28.33	\$32.50	\$40.00
Fertilizer	\$59.50	\$57.00	\$58.00	\$80.00
Lime	\$11.00	\$12.50	\$16.50	\$10.00
Chemicals	\$47.00	\$46.00	\$42.00	\$30.00
Application	\$12.00	\$12.00	\$12.50	\$10.00
Labor	\$24.00	\$18.00	\$12.00	\$15.00
Fuel	\$12.00	\$9.00	\$13.00	\$8.00
Repairs	\$9.00	\$11.00	\$22.00	\$10.00
Drying	\$20.00	\$28.00	\$15.00	\$20.00
Interest	\$6.50	\$6.50	\$8.00	\$7.00
Hauling	\$25.00	\$25.00	\$25.00	\$18.00
Combining	\$27.00	\$25.00		\$22.00
Total Variable Costs	\$280.50	\$278.33	\$256.50	\$270.00
Total Fixed Cost	\$60.00	\$55.00	\$70.00	\$70.00
Total Costs	\$340.50	\$333.33	\$326.50	\$340.00
Break Even Price	\$2.72/bu.	\$2.67/bu.	\$2.61/bu.	\$2.72/bu.



No-Till Wheat-70 Bu.				
<u>Input Costs</u>	<u>Delaware</u>	<u>Ohio</u>	<u>Virginia</u>	<u>Montgomery Co. Costs</u>
Planting				\$20.00
Seed	\$27.00	\$21.00	\$22.00	\$28.00
Fertilizer	\$50.00	\$52.00	\$55.00	\$70.00
Lime	\$10.00	\$10.00	\$12.00	\$10.00
Chemicals	\$26.00	\$12.00	\$18.00	\$20.00
Applications	\$12.00	\$0.00	\$14.00	\$14.00
Labor	\$16.00	\$20.00	\$18.00	\$0.00
Fuel	\$10.00	\$9.00	\$14.00	\$0.00
Repairs	\$6.50	\$11.00	\$20.00	\$0.00
Interest	\$4.50	\$5.00	\$5.00	\$5.00
Hauling	\$14.00	\$14.00	\$14.00	\$14.00
Custom Combine	\$20.00	\$0.00	\$0.00	\$30.00
Other	\$12.00	\$8.00	\$0.00	\$0.00
Total Variable Costs	\$208.00	\$162.00	\$192.00	\$211.00
Total Fixed Cost	\$60.00	\$135.00	\$100.00	\$30.00
Total Costs	\$268.00	\$297.00	\$292.00	\$241.00
Break Even Price	\$3.57/bu.	\$3.96/bu.	\$3.89/bu.	\$3.44

Round Up Ready Soybeans--35 bu./acre			
<u>Input Costs</u>	<u>Delaware</u>	<u>Ohio</u>	<u>Tennessee</u>
			<u>Montgomery Co. Costs</u>
Planting			\$20.00
Seed	\$24.00	\$32.00	\$45.00
Fertilizer	\$0.00	\$18.00	\$25.00
Lime	\$11.00	\$7.00	\$10.00
Chemicals	\$20.00	\$14.00	\$20.00
Application	\$12.00	\$0.00	\$14.00
Labor	\$24.00	\$23.00	\$0.00
Fuel	\$9.00	\$6.00	\$0.00
Repairs	\$8.00	\$12.00	\$0.00
Interest	\$2.50	\$4.00	\$5.00
Hauling	\$7.00	\$7.00	\$8.00
Custom Combine	\$27.00	\$0.00	\$30.00
Other	\$20.00	\$15.00	
Total Variable Costs	\$164.50	\$138.00	\$177.00
Total Fixed Cost	\$60.00	\$105.00	\$45.00
Total Costs	\$224.50	\$243.00	\$222.00
Break Even Price	\$6.41/bu.	\$6.94/bu.	\$6.34