

Preparing the Ground for an Innovative Farm Community —Orange County, New York

By Jack Hornickel, Jim Oldham, and Johanna Rosen

The first any of us spoke of Nemeth Farm was at a retirement party held at Jimmy's No. 43, a subterranean East Village foodie hang-out. The retiree was a long-time Union Square Greenmarket manager, and Morse Pitts, having sold his vegetables at Union Square for more than 30 years, was there for the sendoff.

At the time, Morse was in the midst of his own, long-desired, land conservation effort. Year after year, he had seen the industrial development creep up to his property in Hamptonburgh, Orange County, New York: millions of square feet converted here for a distribution center, graded and paved there for a medical products manufacturer, an iron foundry, a truck wash, another distribution center, and another. Morse's agricultural neighborhood was being swallowed by warehouses, droning through the night, with orange fluorescent parking lot lights disturbing the twilight.

The fact that Morse owned a farm in the first place was a happy accident. Growing up in suburban Long Island, his parents received notice one day that a 142-acre farm in New York's then rural Hudson Valley had been bequeathed to them by a scarcely known relative. Along with the land, century home, and historic carriage house came a levy of unpaid taxes. With a sardonic touch, the family named it "Windfall."

Their visits to the surprise farm began with weekend trips and eventually developed into year-round residency. None of the Pitts family were farmers. To cover the taxes, they variously rented the property to local dairymen and sold gravel extracted from its generous glacial deposit.

As Morse and his sisters reached adulthood, they moved from the farmhouse. Morse took employment as caretaker of the nearby Unitarian Meeting House.

But Morse always maintained a vegetable garden on the inherited property. The garden grew each year, incorporating greenhouses, tractors, more efficiency, and greater sophistication. Morse was joined by his sister Kathi, mother Gladys, and friend Barry. His first sale was a load of pumpkins to gourmet grocers Dean and DeLuca in 1980, and his business was born. Morse began selling vegetables as "Windfall Farms" at the Union Square Greenmarket in 1988.

Windfall Farms has always held high environmental standards, rejecting all use of pesticides, fungicides, herbicides, and synthetic fertilizers. In the early years, Morse marketed his produce as "organic." Once that term became regulated by the US Department of Agriculture,

Morse's agricultural neighborhood was being swallowed by warehouses.



Windfall Farms in center, with Nemeth Farm (to east) in background.

OCLT/LightHawk

Morse Pitts.

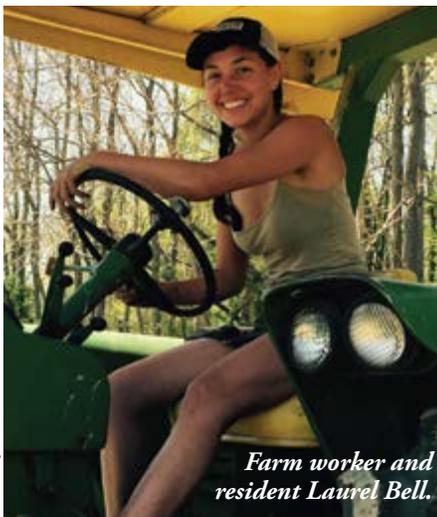


Darin Hinman



Windfall Farms' greenhouse.

Darin Hinman



Farm worker and resident Laurel Bell.

Courtesy of Johanna Rosen



Morse and supporters in planning session.

Chris Wayne

which grants certification with a certain tolerance for chemical applications, Windfall Farms abandoned the term and adopted “unconventionally grown” to describe its ethic of caring for health and environment.

Morse’s dedication to ecologically-conscious farming and his welcoming attitude gained the interest of countless farmhands over the years. The Gonzalez family, now in its third generation, arrived at Windfall 28 years ago after farming under intensive chemical application elsewhere, and continues to work there today. Some folks have come to learn Morse’s methods and gone on to launch their own farm businesses. Kira Kinney of Evolutionary Organics (New Paltz, New York), David Siegel of Muddy Farm (Stone Ridge, New York), Sue Lametta of Bramble Hill Farm (Unity, Maine), and Hubert McCabe of Fine Line Farm (Searsmont, Maine) are all Windfall Farms alumni. Currently, Zach Pickens of Farm Tournant and Bryan Quinn of One Nature, a native landscaping business, are building independent businesses onsite at Windfall.

The question for Morse, with bulldozers at his doorstep, has been whether this farm community, based on collaboration and mentorship, could continue beyond his lifetime. For help, he reached out to GrowNYC, Equity Trust, Orange County Land Trust (OCLT), and Scenic Hudson. With their support, he began working together with the farm employees, residents—including his sister Kathi—and fellow farmers to develop a plan that could maintain both commercial farming on the property and the cooperative community spirit among multiple farmers.

As is so often the case with family farms, the first challenges were to find a way for the several family members who co-owned the property to benefit from its value, and for Morse to obtain some money for retirement, yet still preserve the farm. The surest method would be to sell a conservation easement. This would prohibit future development on the land while generating funds to buy out the non-farming family members.

New York has a strong state-funded farmland protection program, and OCLT and Scenic Hudson were confident that an application for Windfall would be competitive. But a funding request needs local government backing and, in Hamptonburgh, where some view protected farmland as standing in the way of new tax revenues from in-

dustrial development, getting the required endorsement did not look easy. However, with strong backing from OCLT and neighbors, and the advocacy of supportive Councilors, in August 2014 the Town Board voted in favor. A successful application for state funding to purchase an easement on the farm followed and, in December 2016, after the land had been surveyed and appraised, and easement terms negotiated, Morse sold the development rights to OCLT, with 75 percent of the price paid by New York State, and Scenic Hudson providing the required 25 percent match. The payment was divided among the four Pitts siblings and their cousins, all heirs to the property, leaving Morse with a modest sum and sole ownership. More importantly, he and his allies had leveraged decades of conscientious farming and incidental community organizing to permanently protect his family farm from development.

Even with this important success, more work remained to realize Morse's vision for a farm where young farmers could easily access the land to build skills and a business in tandem, and gain equity in that business without the burden of a great land debt. The sale of development rights lowered the value of the land considerably, but the resulting price would still be too high for many farmers to afford. Also, if the land remained in private ownership, there is no guarantee that Morse's ethos of land-sharing would survive. What was needed was a novel land-ownership model designed for long-term affordability. The parties agreed that Equity Trust would seek funding to purchase Windfall Farms' land to establish such a model through shared ownership. Morse and his fellow farmers would retain ownership of the infrastructure, and access to the land, under a long-term ground lease. (See sidebar.)

In the thick of this major undertaking, with the ink barely dry on his own conservation easement, Morse was, frankly, much more concerned about his neighbor, David Nemeth.

How Shared Farm Ownership Works

Shared farm ownership is an arrangement where the land is taken off the market and held in trust by a nonprofit entity (in this case Equity Trust) which makes it available to farmers through long-term (often 99-year) ground leases. The lease allows farmers to purchase and own the existing buildings and build new infrastructure. The nonprofit has stewardship responsibilities, while the costs of upkeep, taxes, and insurance are the responsibility of the farmers. The ground lease requires commercial farming to ensure that the surrounding community continues to benefit from the food produced and the economic activity. Once situated on the land, multiple farmers can either cooperatively manage the land under a single lease or share the property under a series of separate leases. Either way, shared farm ownership is very compatible with the approach to mentoring and sharing of skills and equipment already established at Windfall and Nemeth Farms. When a farmer is ready to retire or relocate, they can sell their leasehold interest and the accompanying infrastructure to another farmer for its agricultural value.

By taking the real estate value out of the equation, farmland access is much more affordable for incoming farmers. Once on the land, farmers can reinvest more of their income back into their business or into retirement accounts, rather than paying interest on a large mortgage. This approach has roots in affordable housing, where, since the 1980s, community land trusts have used shared ownership and long-term ground leases very successfully to maintain affordability in both urban and rural communities.

—JH, JO, JR



Farm worker and resident Darin Hinman.

Courtesy of Johanna Rosen

The Organizations Supporting This Effort

Equity Trust is a small, national nonprofit organization dedicated to equitable and sustainable land use. For over 25 years it has promoted the protection of affordable working farms through model projects, innovative ownership structures, and financing. Equity Trust's Hudson Valley Farm Affordability Program provides technical assistance, grants, and bridge loans to farm protection projects designed to keep farmers on the land.

Role in partnership: Provided model ground leases and funding to establish the shared ownership farm. As title-holder, will negotiate leases and oversee future farmer-to-farmer transfers. Intends to serve as a bridge to an existing or new regional entity taking over ownership sometime after the ground lease relationship is established with a full contingent of farmers.

GrowNYC is a 501(c)(3) nonprofit organization that helps residents make New York City the most sustainable city in the world. GrowNYC operates Greenmarket farmers' markets, engages New Yorkers in recycling education, builds and maintains green spaces, and engages young people in hands-on education. Through its FARMroots program, GrowNYC offers business development technical assistance to Greenmarket farmers to ensure their long-term viability.

Role in partnership: Provides ongoing technical and legal assistance to Windfall Farms. Participated in the development of the easements and ground lease. Committed to helping identify and recruit new farm businesses to the land; supporting those businesses with technical assistance and help accessing markets; and partnering with Equity Trust and Windfall Farms in addressing zoning, building code, and land use issues faced by the farms.

Orange County Land Trust was formed in 1993 by a group of conservation-minded visionaries led by Louis V. Mills, OCLT's founder and first president, and Orange County's first County Executive. It works to protect and preserve scenic and environmentally sensitive areas of the county for future generations before they are lost to anticipated growth and development.

Role in partnership: Liaison with Orange County government, easement holder, responsible for long-term stewardship and enforcement of the terms of the easements.

Scenic Hudson helps communities preserve land and farms, and create parks where people enjoy the outdoors and the Hudson River. It brings together people, businesses, and government to protect the river and natural resources that support the valley's local economies. Started in 1963, Scenic Hudson is credited with launching the modern grassroots environmental movement. Today, its focus is on strengthening and maximizing benefits all can enjoy from the region's beautiful open spaces, working farms, and vibrant cities and town centers. Its Foodshed Conservation Plan creates a roadmap for protecting farms that supply fresh local food to NYC and the Hudson Valley.

Role in partnership: Participated in the development of the easements and provided, with OCLT, technical expertise and administrative oversight to complete the easement transactions. Provided funding for the conservation easements and is the organization that would take over easement stewardship and enforcement if OCLT were unable to continue in that role.

—JH, JO, JR



Back at that Greenmarket retirement party, in the dim hall of Jimmy's No. 43, Morse told Jack Hornickel, a staff attorney at GrowNYC, that he suspected his neighbor was in foreclosure. Someone had seen an article in the legal section of the local paper. Neither knew much about tax foreclosure, but they agreed to look into it together.

Morse and Jack met with David at his 72-acre farm to learn more. Under a light rainfall, Morse offered a personal loan to pay back taxes and recover the land from the County, which, David confirmed, had taken title. However, after further research, it became clear that David's window for redemption had closed and that the County government was already preparing to sell the property for industrial development—more farmland was about to be paved.

Indeed, David had observed land surveyors and real estate agents walking the property. Thus, the race was on to uncover what was proposed, how far along the project was, and what strategies might save the farm. Such a campaign would require the participation of Windfall Farms' employees and residents, nonprofit partners, and neighboring landowners. So, that team was mobilized. Not another warehouse; all were committed.

The first challenge came at a meeting of the Town Planning Board, where the site plan for development of Nemeth Farm was to be presented. The plan included 88,000 square feet of warehouse, with 42,000 square feet for future expansion, 20 tractor-trailer bays, a 420-foot rail dock, and parking for 85 employees. This facility would be constructed next to state-designated wetlands through which a paved industrial access roadway would be driven. It would receive conventionally-grown produce from the West Coast, to be washed, repackaged, and distributed to New York City. The project was everything that Windfall Farms stood against.

The local community again turned out in numbers, along with Morse, Kathi, and Windfall Farms employees. The farmers and neighbors raised many concerns: The hours of operation were a sham, argued a neighboring property owner; the truck traffic would be required to execute an impossible jack-knife on a sleepy town road, observed another. Surely the wetlands would flood with all the additional paved surfaces. "These same soils have supported my farm for decades!" Morse cried from the vestibule. The Planning Board listened respectfully and, fortunately, the developers never returned.

The second challenge was to propose a viable alternative. Morse and Jack reached out to Equity Trust, which agreed to expand the long-term plan for Windfall Farms to incorporate Nemeth Farm. With the prospect of additional acreage, and David's inventory of vintage tractors and mechanical expertise, the vision for multiple farm operations sharing land, skills, equipment, and other resources could be amplified. OCLT and Scenic Hudson were also eager to pursue the protection of these additional 72 acres. So over the next 18 months, all partners worked to make it happen.

It was agreed that, if a purchase could be negotiated, Equity Trust would buy the farm and enter into a ground lease with Windfall

Farms upon Scenic Hudson's purchase of an easement. OCLT would hold the easement and Windfall would manage the land in conjunction with David, who would be able to continue to farm the land he had lost through the foreclosure.

OCLT took the lead in negotiating with the County government, which agreed to sell the farm for conservation purposes at a less-than-market-value price. The nonprofit partners shared costs and responsibility for an appraisal, environmental review, title search, survey, and property inspections, and worked collectively to draft an easement and ground lease appropriate to the long-term vision. In August 2018, Equity Trust purchased Nemeth Farm from Orange County and Scenic Hudson simultaneously bought the agricultural conservation easement, a key element in making the transaction financially viable for all the partners. With counsel from GrowNYC, Windfall Farms acquired the existing buildings and executed a ground lease, ensuring land access for all farmers.

This multi-party effort has saved another farm from industrial development. With Nemeth Farm now secure under the shared ownership envisioned for Morse's property, the project partners are returning to that original effort, seeking funds to match those that Equity Trust has committed to complete the transfer of ownership of the Windfall property. They are simultaneously working to bring additional farmers onto the land and create cooperative management structures.

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Windfall and Nemeth Farms comprise a protected corridor of 214 acres of productive farmland, woods, and sensitive wetlands, in an area facing intense pressure from development, just 50 miles from New York City. With four farm businesses on the land and, between them, more than 20 people employed, the farms are already making an important contribution to the community. Yet there is potential for so much more.

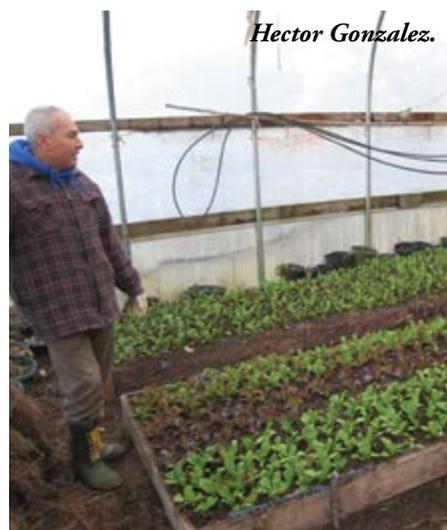
And more will develop, as the farmers—current and newly recruited—organize themselves on the land, and work with their nonprofit partners to create a

land plan, new leases, and cooperative structures. There will be challenges: How, for example, to maintain the openness and flexibility Morse has established, while formalizing what have been historically ad hoc, personal agreements? Yet already this project has demonstrated how organizations can help communities create new ways to hold, protect, and care for land that makes sustainable and collaborative farming possible. 🍁

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Jim Oldham has dedicated his professional life to organizations that aim to empower communities to build economic and social relationships that are both sustainable and just. He currently serves as Executive Director of Equity Trust, a position he has held since 2010.

Johanna Rosen works with Equity Trust's Farms for Farmers program, providing technical assistance to farmers and communities seeking to protect affordable working farms and provide secure land tenure. She holds a Master of Environmental Studies from the University of Pennsylvania with a Certificate in Land Preservation.



Hector Gonzalez.



The Gonzalez Family, packing squash blossoms.

Courtesy of Johanna Rosen

Courtesy of Johanna Rosen



Erik Hassert