Land Conservation Strategies for Watershed Protection
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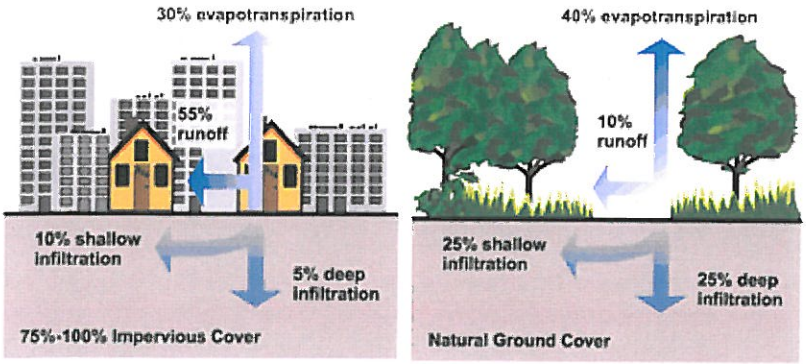
I. Start with a Mapping and Prioritization Study of all the Remaining and Threatened Open Space Parcels within Your Subject Watersheds

- In 2011, the Aquidneck Land Trust ("ALT"), with assistance from Salve Regina University and Roger Williams University, completed a year-long mapping and prioritization study of all the remaining and threatened open space parcels within Aquidneck Island's seven primary watersheds.

- A watershed, as defined by the United States Environmental Protection Agency ("EPA"), is an area of land where all of the water that is under it or drains off of it goes into the same place.

- Aquidneck Island's seven main watersheds are the Lawton Valley Reservoir, St. Mary's Pond, Sisson Pond, Bailey's Brook, Nelson Pond, Gardiner Pond, and Maidford River Watersheds. These watersheds support the Newport Water Department's seven surface water reservoirs on the island. The Newport Water Department also maintains a surface water reservoir in Tiverton, known as Nonquit Pond, and one in Little Compton, known as Watson Reservoir. Together, these nine surface water reservoirs supply water to most of Aquidneck Island's residents and visitors.

- Developed areas affect water quality and quantity. In developed areas, much of the land surface is covered by buildings and pavement which can prevent rain and snowmelt from soaking into the ground. Most urban and suburban areas rely on storm drains to carry large amounts of runoff from roofs and paved areas to nearby waterways. The stormwater runoff carries pollutants, such as oil, dirt, chemicals and lawn fertilizers, directly to rivers, reservoirs and coastal areas which harms water quality. To see the relationship between ground cover and surface runoff, see the EPA diagram below:



Relationship between impervious cover and surface runoff. Impervious cover in a watershed results in increased surface runoff. As little as 10 percent impervious cover in a watershed can result in stream degradation.

- Laura Gabanski, Senior EPA Biologist and Healthy Watersheds Initiative Leader, states, "The cost of protecting watersheds is much less than the cost of restoring impaired waters. Choosing to protect ecologically valuable systems will save money in the long run." Aquidneck Island has been learning this lesson. For example, in Bailey's Brook Watershed, the island's most heavily developed watershed, an expensive ultra violet stormwater treatment plant was built near Easton's Beach, in addition to the pursuit of other proposals such as a costly offshore stormwater discharge pipe, due to polluted water, contaminated stormwater runoff and the resulting beach closures and other problems.

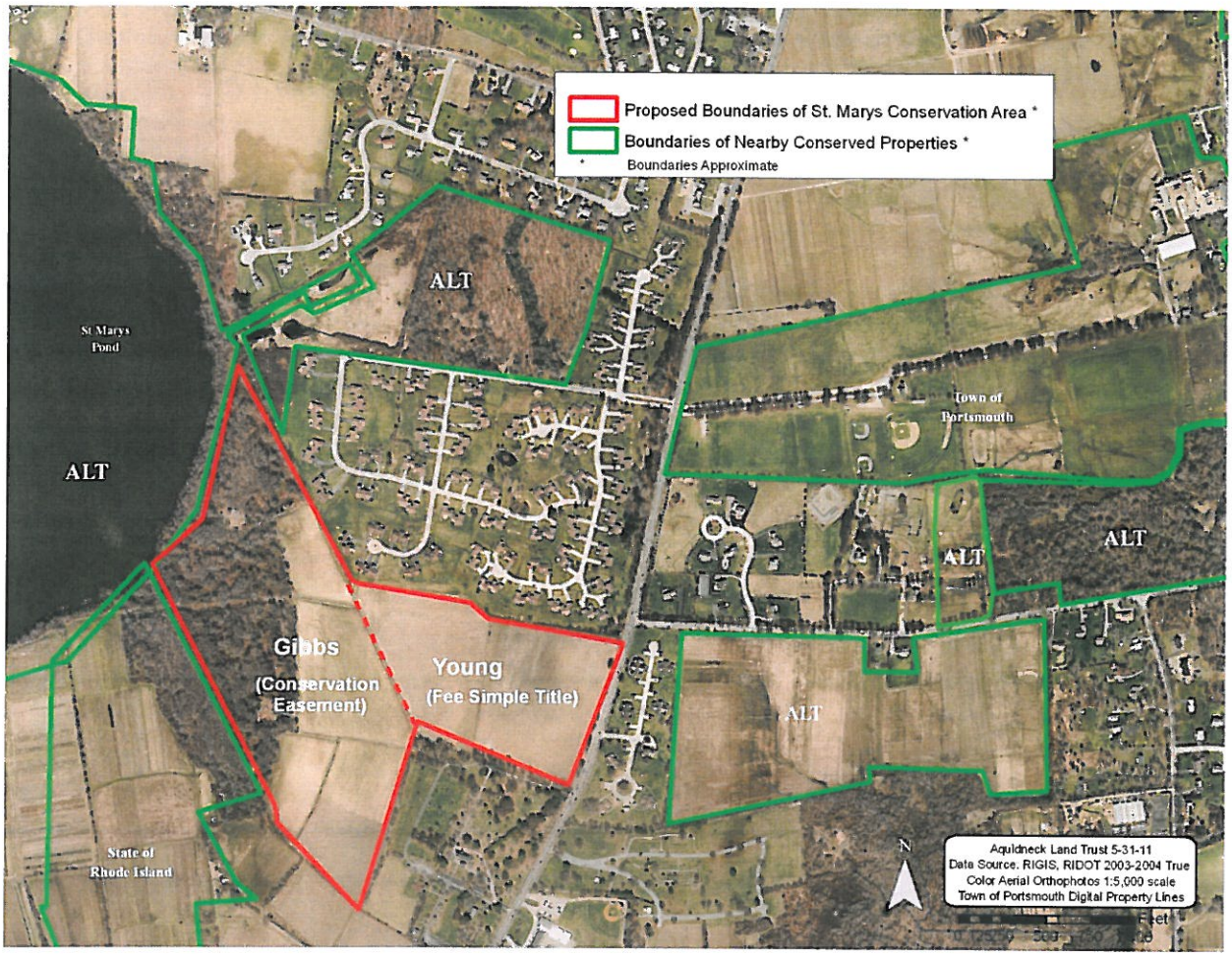
- During the course of the study, ALT identified almost 300 open space parcels, representing over 3,000 acres, at risk of development within Aquidneck Island's seven primary watersheds.

- Next, ALT prioritized these properties from a watershed protection perspective using 6 scoring criteria:
    1. Parcel an important buffer as is contiguous with a Critical Water Source
    2. Parcel at least partially within subject watershed and within 200' of a Critical Water Source
    3. Parcel an important buffer as is contiguous with a tributary of a Critical Water Source
    4. Parcel contains at least 3 acres of forested area
    5. Parcel contains at least 3 acres of wetland
    6. Parcel contains 10 or more acres of undeveloped land

- A Critical Water Source was defined as Lawton Valley Reservoir, St. Mary's Pond, Sisson Pond, Nelson Pond, Gardiner Pond, North and South Easton Reservoirs, Bailey's Brook, Maidford River and Paradise Brook (i.e., the 7 reservoirs and main rivers/brooks on Aquidneck Island).

- Out of this scoring process, three tiers of parcels for watershed protection were created, with Tier 1 parcels being the most important lands with the highest scores. There were about 100 Tier 1 parcels identified, representing almost 2,000 acres.

- To better understand the importance of a Tier 1 parcel for watershed protection, it is helpful to look at an actual example. The St. Mary's Church land off of East Main Road in Portsmouth had a Tier 1score. The land is contiguous with St. Mary's Pond and thus directly buffers and protects this important island water reservoir. The land also has over 3 acres of forest and wetlands. Furthermore, the property has well over 10 acres of undeveloped land. Fortunately, on May 25, 2011, ALT signed an Option Agreement with St. Mary's Church and the Gibbs Trust that will give ALT until May 24, 2013 to raise $3 million to conserve about 70 acres of the St. Mary's Church land outlined in red below:



II. Begin Work on Conserving the Important and Threatened Open Space Parcels Identified in Your Watersheds Mapping and Prioritization Study – Including Conservation Lands (e.g., government reservoir areas) if Necessary

- Since completing its watersheds mapping and prioritization study in 2011, ALT has secured conservation agreements on 3 Tier 1 parcels and is in negotiations on other properties also identified as Tier 1 parcels from a watershed protection perspective.

- Sometimes even conservation lands within a watershed can be at risk of development because not all conserved land is equal in terms of level of protection. Examples of converted, or almost converted, governmental conservation lands:
    1. Big River Reservoir Area, West Greenwich, Rhode Island
    2. Middletown/Kempenaar Parcel, Middletown, Rhode Island
    3. Other

- **Good conservation is like good government, it requires checks and balances, and not all conserved lands have adequate checks and balances.**

- For simplicity purposes, most conserved lands can fit into one of the following protection level categories: Land Conserved with a Perpetual Conservation Restriction (strongest level of protection); Land Conserved with a Deed Restriction (middle level of protection); and Land Conserved with Conservation Intent Alone (lowest level of protection). The hierarchy of protection level categories defined:
    1. Land Conserved with a Perpetual Conservation Restriction – Land that has a perpetual conservation restriction (e.g., Conservation Easement) on it held by an entity, besides the landowner, that is recognized as a qualified organization under s. 170(h) of the Internal Revenue Code
    2. Land Conserved with a Deed Restriction – Land encumbered by conservation deed restrictions and owned by a qualified organization, as recognized under s. 170(h) of the Internal Revenue Code, for conservation purposes, but land lacks a perpetual conservation restriction (e.g., Conservation Easement) held by another entity, besides the landowner, that is recognized as a qualified organization under s. 170(h) of the Internal Revenue Code
    3. Land Held with Conservation Intent Alone – Land owned by a qualified organization, as recognized under s. 170(h) of the Internal Revenue Code, for conservation purposes, but land lacks conservation deed restrictions and a perpetual conservation restriction (e.g., Conservation Easement) held by another entity, besides the landowner, that is recognized as a qualified organization under s. 170(h) of the Internal Revenue Code

- The pressures on our remaining open spaces will only be increasing as there is less and less land available for development proposals. Also, with cash strapped communities there is a threat of governmental entities privatizing their water systems which can include selling off reservoirs and associated buffer lands to private companies. Nationally and locally, many conserved open spaces that lacked adequate conservation protections have been lost to development. In recognition of the above, we can place perpetual conservation restrictions (i.e., a Conservation Easement) on important and weakly protected open spaces within our watersheds. For example, in 2006, ALT acquired a perpetual Conservation Easement from the City of Newport on a 404.21 +/- acre reservoirs area, which was previously only at the Land Held with Conservation Intent Alone level. This reservoirs area contained Lawton Valley Reservoir, St. Mary's Pond, Sisson Pond and associated buffer lands. This was the single largest conservation deal every completed on Aquidneck Island, and the first of its kind in Rhode Island.

- Selling points to governmental entities for increasing protections on government owned conservation lands in watersheds: placing a Conservation Easement on a reservoir area can provide supplemental stewardship by a local land trust; protecting important municipal conservation lands from future town councils that may look for a quick fix to a budgetary problem; providing financial incentives; etc.

- Ways to address condemnation concerns with a Conservation Easement placed on governmental conservation lands – layers of protection:
    1. Monetary consideration/contract argument
    2. Governmental entity waiving condemnation rights in Conservation Easement
    3. Required compensation by the governmental body for the value of the property interest (i.e., Conservation Easement)
    4. Competing public purposes argument (Is the conservation land actually creating more public good than the proposed roadway, etc.?)
    5. Negotiations to limit the impact to the conservation land (e.g., after negotiations, and more careful consideration, perhaps only part of the conservation land needs to be condemned)
    6. Conveying Conservation Easement to a higher level governmental entity with conservation interests (e.g., U.S. Fish & Wildlife Service) to defeat proposed condemnation action
    7. Enlisting public and political support for the conservation land at risk
    8. Etc.

  Holding a Conservation Easement on the property at issue gives a land trust an important seat at the condemnation negotiation table.

- There are other strategies to help protect important government conservation lands in watershed areas. For example, land trusts and others can help governmental entities pro-actively adopt public policies and procedures regarding the process to be followed for conversion of conservation lands when necessary. What follows are examples of criteria and requirements for inclusion in such public policies and procedures:
    1. Well documented compelling public need that substantially outweighs the public good afforded by the government conservation property at issue
    2. Well documented and thorough search for other possible non-conservation host lands and clear conclusion that the government conservation property at issue is the only feasible site
    3. The area of the government conservation property being considered for conversion is the minimum area necessary to meet the need
    4. Prior to final approval and conversion of the government owned conservation property at issue, a new and not yet conserved parcel in the appropriate area, at least equal in natural resource values and acreage to the government conservation parcel at issue, must be acquired by the government for conservation purposes
    5. Well documented and thorough evaluation of original grantors and/or donors intent to ensure that there is no violation of such intent. In other words, honor those that helped the governmental body acquire the conservation parcel at issue. Trust is the foundation for any successful land conservation program.
    6. No conversion will run counter to any applicable laws and/or affect the status of the governmental entity under any applicable laws

- Land trusts and others can also put on watershed protection education and outreach initiatives for their communities to build support for watershed protection. See the two examples below from ALT's 2012 Conservation Speaker Series:

    1. ***Last Call at the Oasis, Thursday, April 19th, from 5:30pm to 8:30pm, Jane Pickens Theater, 49 Touro Street, Newport*** – Firmly establishing the urgency of the global water

crisis as the central issue facing our world this century, this documentary film illuminates the vital role water plays in our lives, exposes the defects in the current system and shows communities already struggling with its ill-effects. Featuring activist Erin Brockovich, respected water experts including Peter Gleick, Jay Famiglietti and Robert Glennon and social entrepreneurs championing revolutionary solutions, the film posits that we can manage this problem if we are willing to act now. After the film, there will be a discussion with Alex Prud'homme whose book, *The Ripple Effect: the Fate of Freshwater in the Twenty-First Century*, inspired the creation of this documentary film. For more information about Alex, visit www.alexprudhomme.com In addition, during the discussion the global water crisis will be examined along with local actions we can take, such as the Aquidneck Land Trust's watershed work. This free presentation is made possible through a collaboration between the Aquidneck Land Trust and newportFILM. **RSVP to Courtney Huth at chuth@ailt.org or 401-849-2799 ext. 19 as space is limited.** Refreshments will be provided. This event is free and open to the public.

2. ***Holistic Watershed Protection: Lessons Learned from the Chesapeake, Deb Caraco, P.E., Senior Watershed Engineer, Center for Watershed Protection, Thursday, May 17th, 5:30pm to 7:00pm, CCRI Auditorium, One John H. Chafee Boulevard, Newport –*** The Center for Watershed Protection ("CWP"), based in Maryland, works to protect, restore, and enhance our streams, rivers, lakes, wetlands, and bays. They create viable solutions and partnerships for responsible land and water management so that every community has clean water and healthy natural resources to sustain diverse life. Founded in 1992, CWP is a non-profit organization that has developed a multi-disciplinary strategy to provide technical assistance to local governments and non-profits who work to protect the nation's water resources. CWP has helped communities around the country discover the importance of approaching environmental work at the watershed level. Deb Caraco is CWP's Senior Watershed Engineer. She will provide participants with lessons learned from working in the Chesapeake, including specific examples of successful projects (land conservation, nutrient management, dealing with CSOs, etc.), that can be applied here on Aquidneck Island. This free presentation is made possible through a collaboration between the Aquidneck Land Trust and the Aquidneck Island Watershed Council. **RSVP to Courtney Huth at chuth@ailt.org or 401-849-2799 ext. 19 as space is limited.** Refreshments will be provided. This event is free and open to the public.

III. Conclusion

- Water quality and quantity are important for wildlife, our health, our quality of life, agricultural pursuits, our economy and are simply basic to life itself. To take our water resources for granted, and not work to give them permanent protections, is to leave ourselves and our communities vulnerable. Thus, land trusts should add strategic watershed protection programs to their organizational endeavors.