

Developing an Effective Approach to Strategic Planning for Native American Indian Reservations

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Abstract. This article proposes an approach to Native American Indian reservation planning that aligns a tribe's community development objectives with its historical experiences and its political self-determination aims. The approach incorporates consideration of jurisdictional obstacles that operate in tribal affairs and reflects the planning experiences of the Swinomish Indian Tribe of Washington State. The strategic and adaptive approach evaluates the conditions of past and present events as planning strategies are selected to overcome conflicts in the tribe's future-planning environment. The approach provides a systematic process for policy development to consider the political variables that simultaneously compete on Native American Indian reservations.

Introduction

Theories are important in planning because they help to explain the variables that affect a community's development. The variables affecting the development of Native American Indian reservation communities are among the most complex found in American planning. These variables result from a long history of political and cultural subjugation, the forced sub-division and subsequent sale of reservation lands to non-Indians, jurisdictional encroachment onto reservations by non-tribal governments and the resulting marginality of reservation economies. Despite these factors, important progress is occurring on many Indian reservations through effective planning to improve the social and economic conditions necessary to sustain native communities.¹

As revealed in the history of US Indian policy, the reason for a diminished tribal role in governing the reservation territory is largely due to factors external to the tribes. Planning can help tribes to overcome obstacles to their development and help to achieve their self-determined goals. In order for tribes to advance their community development, they must, as they undertake planning, simultaneously consider the independent factors that impede their development. The central premise of this article is that, as tribes encounter external conflict, their response should be guided by an informed planning approach that considers both the historical circumstances that gave rise to the conflict as well as their ability to exercise effective political action to overcome the conflict.

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Planning in reservation communities is fundamentally a political process that seeks to advance the autonomy of tribal nations through the exercise of political sovereignty.² The term 'planning' as used in this article refers to the strategic choices and actions employed by tribal nations to bring about improvements to the physical, political, social and economic conditions of the reservation community. It is a purposeful activity that enables the tribal nation itself to determine preferred outcomes by exerting the forces of sovereignty in order to attain desired ends. Strategic planning lies at the heart of tribal planning because Indian reservation community development is dependent upon the reclamation of sovereignty which had been historically usurped from the tribes.

This article presents a concept of planning that emphasises the consideration of the external factors that are encountered in tribal community development. Planning's theories, as well as recent political advances in Indian policy brought about by the Native American leadership and the nation-building experiences of the Swinomish Indian Tribal Community of Washington State, each help to inform the approach. The history of federal Indian policy is first briefly reviewed in order to frame our understanding of the events that influence the setting of tribal planning. Approaches that counteract political obstacles to tribal community development are then considered.

To establish the context of tribal planning, a typology is presented to express the general aims of tribal community development. The typology reflects the characteristics shared by many tribal nations based on their common history. The typology is then integrated into a general planning approach that aligns a tribe's community development objectives with its historical experiences and its political self-determination aims. It is anticipatory and adaptive as it considers past and present events as planning strategies are selected to overcome future conflicts.

Federal Indian Policy History and the US Political Economy

A contradictory pattern of public policy has confronted tribal nations since the federal government first established its trust relationship in treaties.³ In almost all of the treaties entered into between 1787 and 1871, Indians ceded their lands in exchange for the guarantee of an exclusive and permanent reservation homeland and the federal protection of their political sovereignty and well-being. The Supreme Court has repeatedly held that such promises establish the principle of a special trust relationship and a federal duty to protect Indians, their land resources and their continued right to self-govern.

Despite certain limitations to their inherent sovereignty as a result of their status as domestic dependent nations, tribal governments retain significant powers over their internal affairs and territories. The ability of tribes to exercise control over their reservations has become clouded, however, due to past federal assimilation and termination policies⁴ that, among other effects, established a complex system of land tenure on many reservations and permitted the intrusion of state political authority over Indian lands. Originating with the General Allotment Act of 1887,⁵ two irreversible conditions to property ownership were established on many reservations. The Act introduced individual Indian ownership through the parcelisation of the formerly collective tribal reservation territory and authorised the transfer of those individual trust parcels to non-Indian fee-simple ownership. Settlement by non-Indians on reservations

created a property rights condition that no longer affected just the tribes. The General Allotment Act permanently disrupted the condition of exclusive tribal control over the reservation. The Act made possible the encroachment of state and local authority over parts of the reservations, creating a 'checkerboard' form of regulatory control on many reservations where the Act was applied (Pevar, 1992). Washington State—for example, has experienced a large degree of reservation incorporation. On the 16 reservations located within the metropolitan region of the Puget Sound, reservation populations average a disproportionate 15 per cent Indian and 85 per cent non-Indian residents (Zaferatos, 2004).

Reservation land-tenure conditions represent a pervasive obstacle to the control over reservations when state and local governments supplant a tribe's political authority with their often-conflicting land-use policies. Consequently, a plurality of private property rights interests has emerged on many reservations that resist the exercise of tribal authority over non-trust lands (Ryser, 1992). The conflicting jurisdiction imposed by the concurrent application of tribal and non-tribal authority on many reservations has brought about civil disputes over the applicability of state and local land-use regulations which frustrate a tribe's ability to bring about its desired community development (Weaver, 1990). This situation has become particularly acute when non-Indians constitute a significant portion of the reservation population. The Assimilation period represented the earliest step towards incorporating reservation lands and natural resources into the private economy.⁶ While the Indian Reorganization Act of 1934, p. ended assimilation, subsequent federal termination policies in the 1950s furthered the states' subjugation of reservation lands.

Tribal governance re-emerged under a supportive and lasting federal policy under the 1960s Great Society programme. In 1970, the federal Indian self-determination policy introduced community planning on many reservations under tribal authority.⁸ This period also gave rise to the assertion of hunting and fishing treaty rights, claims to territories that were removed from reservations under federal termination laws and the rise in litigation over reservation jurisdictional disputes with states and local governments.

Since 1970, many tribal governments have expanded their planning activities in order to resolve long-standing conflicts within their surrounding political region and to address their alienated reservation land-tenure conditions as well as the rise in anti-Indian government sentiment. Overcoming jurisdictional conflict is largely dependent upon a tribe's capacity to exert its own political action to counteract and reverse the subjugating influences of external government authority. Political action may employ confrontational tactics, including litigation and other forces, to resist the imposing subjugation. Tribal political action in these situations seeks to replace, or at least diminish, the effects of the unilaterally imposed external force, with tribal authority.

Co-operative resolution to jurisdictional conflicts can also be effective in advancing tribal goals (Zaferatos, 2004, p. 407) when the accommodation of competing interests may be preferable to a confrontational approach. The co-operative mediation of disputes opens the possibilities for increased regional political pluralism so that tribal interests become included rather than excluded within the broader multijurisdictional region where tribal interests also exist. A strategic tribal planning approach can help to abate historical jurisdictional conflicts in tribal affairs as a prerequisite step to the effective carrying out of tribal reservation community development.

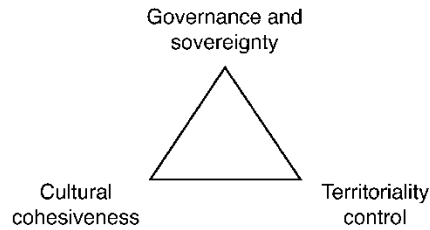


Figure 1. The dimensions of tribal planning.

A Paradigm for Tribal Community Development

The definition of a tribe's community goals is an intrinsic process that reflects the distinct needs and social values of each tribal community. However, many tribal nations share a common set of concerns derived from a collective past—they each strive for cultural survival, political independence and economic betterment (Cornell, 1987; Cornell and Kalt, 1992). Forming the basis for a general tribal development strategy, these collective concerns emphasise the defence of tribal sovereignty, the maintenance of social cohesiveness and the control of territorial resources. Figure 1 illustrates the three dimensions constituting the tribal nation as the primary consideration in tribal planning.

With the understanding that a tribal nation's well-being is inevitably linked to its political, cultural and economic sustainability, the tribal planning approach, then, has two primary objectives. The first concerns the exercise of political autonomy as a means for preserving its social and political cohesiveness. The second concerns the exercise of control over reservation resources. Moreover, since the control of reservation resources is important to attaining tribal economic self-sufficiency, the conditions that supplant tribal control over its reservation affairs impair a tribe's advancement. Therefore, it becomes increasingly necessary to incorporate a capacity, within a general tribal planning approach, to identify conflict situations that exist whenever non-tribal interests are present in tribal affairs. A tribal planning approach, then, requires a capacity to assess the nature of conflict situations as well as to identify effective political actions that can overcome these conflicts. The following briefly examines several of planning's approaches that can help tribes to address these conditions.

Informing the Tribal Planning Situation

Theories in planning help to frame problems occurring in a planning situation and help to make them understandable. Incorporation theory explains the effects of the historical expansion of non-tribal interests in tribal affairs (Page, 1985; Snipp, 1986) and its resulting erosion to tribal sovereignty. Jorgensen (1972) observed that the lack of development and the accompanying slow rate of acculturation of Indians into the US economy were a direct result of exploitation by the incorporating economy. The General Allotment Act made possible reservation exploitation through the alienation of the reservation land base and the resulting non-Indian ownership and control of reservation lands (Deloria and Lytle, 1984; Deloria, 1985). The application of state and local jurisdiction often supplants tribal authority over these alienated lands. Incorporation theory

illustrates the imbalance that resulted between the tribal nation and the US political economy as tribal resources became controlled by and absorbed into the non-tribal political economy. Re-establishing tribal authority over reservation affairs is a necessary step towards reversing reservation incorporation.

The characteristics of incorporation must likewise be discerned by emphasising the context within which tribal planning occurs. Phenomenological approaches in planning (Bolan, 1980; Castells, 1980, 1983) interpret the nature of the planning environment in terms of the underlying conditions that contribute to social and political conflict. The approach emphasises an understanding about the events that are occurring in the tribal planning environment and their relationship to conflict. In this context, the tribal planning situation represents a dialectic relationship between the interests of a tribe and opposing interests. As a phenomenological approach, tribal planning becomes primarily concerned with the dynamic conflicts that are present in the tribal situation and, therefore, is chiefly oriented to examining ways to overcome these conflicts within its general planning approach.

Methods that help to restore a community's self-governance are also important in tribal planning. Self-help approaches in community development (Christenson and Robinson, 1989) hold as an underlying assumption that a community can achieve self-determination within the constraints imposed by the political economy in which a community is embedded. As a community-building strategy, it is directed towards increased community self-reliance and views a community's development as a social and political process capable of bringing about desired changes. Self-help approaches are reflected in several federal Indian self-governance grants in aid programmes (beginning with the Indian Education and Self Determination Act 1975) designed to develop the governance capacity of tribal nations to carry out their own development activities.

Several forms of intervening strategies can be applied to offset jurisdictional subjugation. Confrontation is an effective strategy in tribal political action when employed to challenge the imposition of external interference in tribal affairs. Confrontational tactics are typically stop-gap measures, however, to assert an initial tribal interest and to challenge the presence of the non-tribal intrusion. Three outcomes are likely under this approach: the intruding influence may retreat and defer to tribal authority; the conflict may proceed to litigation to clarify the extent of jurisdictional interest the intruding government may possess; or a mutually agreeable accommodation may be negotiated. Successful negotiation of the dispute becomes formalised in agreements which can further promote intergovernmental co-operation in other areas of mutual interest (Zaferatos, 1998).

The confrontation approach emphasises social and political justice considerations by polarising a community's objectives into well-defined issues and emphasises the identification of strategies to bring about change in the situation (Alinsky, 1972; Etzioni, 2001; Hoch, 1994; Kemmis, 1990). Advocacy planning, which evolved in the 1960s, illustrates how political change can be effectively brought about through the use of confrontational tactics. The approach has been used as an effective short-term strategy by tribal nations to assert their interests in situations where tribes are underrepresented. Roberts (1979) recognised the confrontational approach as an effective tactic in tribal planning to persuade non-tribal governments to consider tribal concerns when confronted with litigation or other actions intended to disrupt the political *status quo*. The advocacy

approach may also be effective in advancing tribal interests off the reservation, where tribes do not possess governance rights. However, the approach alone does not adequately resolve long-standing problems when on-reservation tribal jurisdiction is challenged. A longer-term strategy is needed in order to bring about permanent conditions that are favourable, rather than resistant, to tribal objectives.

Etzioni's (1968) classic model of the self-sufficient political community is particularly useful to the tribal context because it emphasises the necessity for a community to control its territory through its own political and administrative processes, independent from external influences. The self-sufficiency strategy emphasises the importance of a community breaking away from controlling external linkages that disrupt the community (Senghass, 1988; Etzioni, 2001). As planning seeks to mediate relations that stand between the self-sufficient community and its external forces, the self-sufficiency model provides a foundation with which to conceive a tribal community development approach.

The nature of the relationship between tribes and their surrounding communities, which has historically been viewed in terms of coercive relations, has significant importance as the history of Indian litigation clearly exemplifies.⁹ Social learning approaches (Dunn, 1971; Korten, 1980, 1984) seek to achieve utilitarian outcomes (Etzioni, 1968; Faludi, 1973), by emphasising accommodating solutions among the competing interests that are present in reservation affairs.¹⁰ However, a prerequisite condition for the successful mediation of conflict first requires that a 'level playing-field' be established where a tribe's community objectives and the principles of tribal sovereignty are affirmed. The capacity to accept different social values, as represented in tribal and non-tribal communities, is an outcome sought in social learning approaches so that long-standing conflicts rooted in normative differences between communities may begin to become reconciled. Tribal planning, therefore, should be concerned with the resolution of both normative and political conflicts that exist in the tribal planning situation.

Tribal Planning as Strategic and Adaptive Action

To assess the threat to tribal self-governance, strategic and adaptive approaches warrant particular attention in tribal planning. Strategic planning (Steiner, 1979; So, 1984) provides a methodology for systematically identifying opportunities and threats to a community's self-determination.¹¹ The process also assesses the community's capacity to adapt necessary measures to overcome conflicts by identifying the inherent strengths and weaknesses of the organisation from which a political action emerges. The approach is pragmatic as it targets weaknesses within the political organisation itself that must be strengthened. The approach is well-suited to the tribal planning environment insofar as the methodology is concerned with the organisation's primary instinct for political survival which is central to the concept of tribal self-determination.

Adaptive planning provides a structure for selecting the most appropriate responses to a given situation. The preferred action should be contingent upon the characteristics of the situation (Bryson and Delbecq, 1979; Bryson and Einsweller, 1988; Kemp, 1992) and alternative actions are considered against criteria that maximise goal achievement. The tribal planning approach, therefore, should be both anticipatory and reactive. The selection of planning strategies is

shaped by the anticipation of future conflict and requires the ability continuously to adapt new strategies as new situations arise, based on the strategy's effectiveness to eliminate threats to a community's interest (Alexander, 1985, 1995). Planning actions that advance tribal objectives, however, may involve a multiple set of approaches, including organisational capacity-building measures (Bunnell, 1997; Riffle, 2000), as well as mediation, negotiation and the use of confrontational measures.

The Principles of Tribal Self-determination

A community's self-determination requires a capacity first to imagine a desirable future and, then, the ability to attain that future. Over the past several decades, tribes have achieved renewed powers with which to attain their goals by reawakening many aspects of their formerly dormant inherent sovereignty. Since the early 1970s, and largely as a consequence of Indian political action by the Native American leadership, the organising principle of federal Indian policy has focused on the restoration of tribal sovereignty and self-determination, an ideal that tribes themselves should make the decisions that affect their communities. The federal courts have affirmed the rights of tribal nations to shape the future of their communities, furthering the tribal sovereignty doctrine.¹² In addition to being a philosophical ideal, tribal self-determination also applies to federal programmes that enable tribes to self-administer government activities. Since the enactment of the Indian Self-determination and Education Assistance Act in 1975,¹³ the federal government has consistently supported the transfer of federal services administration directly to the tribes. The policy is now well established in federal legislation including the Tribal Self-governance Act of 1994.¹⁴ Despite these important policy advances, the most important variable facing many tribes in the course of charting their future continues to be their inability to exert control over their affairs in order to construct that future.

Since the introduction of the policy of Indian self-determination, Indian policy has been firmly based in four organising principles of self-determination developed by a coalition of representative tribal leaders (National Indian Policy Center, 1993) and the National Congress of American Indians.¹⁵ These principles include the affirmation of the federal trust responsibility, the right to tribal self-governance, the right to a permanent tribally controlled reservation homeland and the federal protection of tribal sovereignty and treaty rights. A typology is presented in Table 1 to associate the four organising principles of self-determination with the three dimensions that comprise the tribal political community: political sovereignty, cultural cohesiveness and territoriality. The typology reflects a general framework for guiding the development of tribal communities and Indian policy within the multigovernmental structure of US government.

Based on these self-determination principles, tribal planning, then, should systematically evaluate how its strategic actions would advance the political, territorial and cultural dimensions constituting the tribal community (Table 2). The following discussion associates each of these guiding principles to the three dimensions and serves to guide the general tribal planning approach.

A political dimension. Although tribal inherent sovereignty has never been extinguished, tribal political authority has been historically eroded, enabling

Table 1. Guiding principles of tribal self-determination

Federal trust responsibility	The US Supreme Court established the doctrine of federal responsibility to protect tribes and their resources and to insulate them from state intervention
Indian self-governance	Indian self-determination policy affirms the priority of tribal decision-making in Indian affairs over federal interests
Permanent homelands	Federal courts affirm the intent of the US Indian reservation policy to establish permanent tribal homelands and exclusive tribal governing territories
Sovereignty and treaty rights	Federal protection of the political status of tribes as self-governing and sovereign entities and protection of their treaty rights is the premise upon which Indian treaties were executed

political encroachment by non-tribal governments, principally by the states and local governments. The political dimension of tribal planning requires the strengthening of tribal self-governance which will enable the fullest exercise of tribal powers. This is accomplished both by strengthening the powers of tribal governance and by removing imposing non-tribal jurisdictional authority from the reservation in order to reduce or eliminate political subjugation and the conditions of reservation incorporation.

A cultural dimension. Native American culture and religion are inseparable from tribal policy development. Tribal cultural norms often assign to reservation lands and natural resources a social use value that emphasises the sustainability of the reservation homeland and a concern for developmental effects that may negatively impact the social community. In addressing the cultural objective, tribal planning should carefully protect the community's cultural stability,

Table 2. A typology for tribal self determination

Guiding principle	Dimensions of tribal planning		
	Political governance	Cultural cohesiveness	Reservation territory
1. Federal trust responsibility	Honouring treaty promises	Uses of trust resources support tribal well-being	Prevention of state intrusion in tribal reservation affairs
2. Tribal self-governance	Federal-tribal relations based on the recognition of tribal sovereignty	Tribal inherent right to determine its community priorities and its own future	Federal assistance to achieve tribal economic self-sufficiency
3. Permanent homelands	Tribal right to govern exclusively in reservation lands	Protection from reservation cultural alienation	Federal protection of reservation territories
4. Sovereignty and treaty rights	Federal assistance to strengthen the capacity of tribal self-governance	Protection of Indian health, welfare and spiritual and cultural self-determination	Guaranteed protection of treaty rights

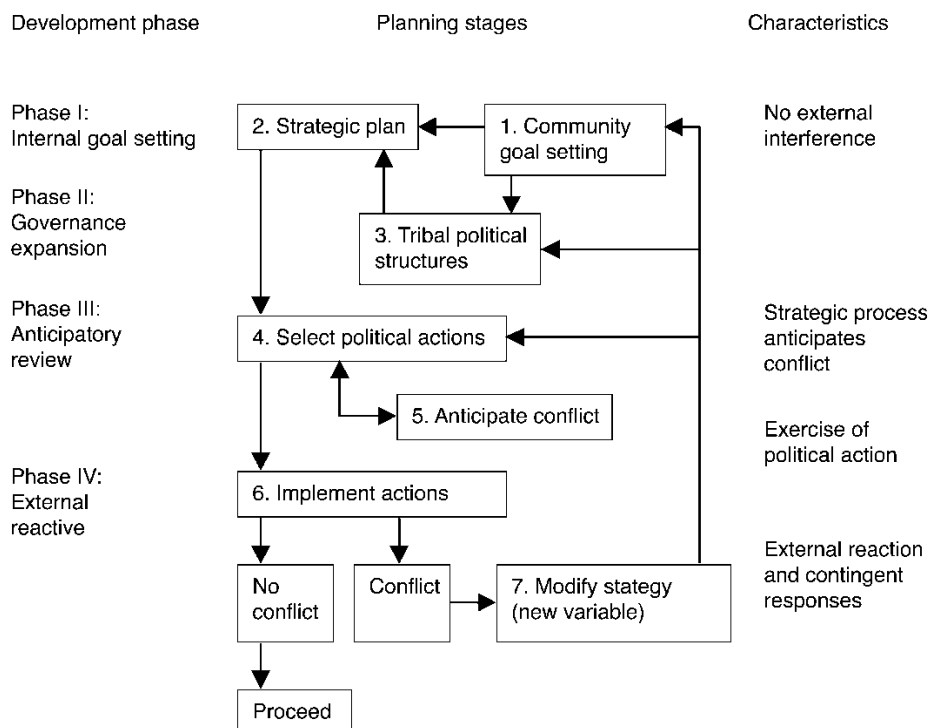


Figure 2. Tribal community development planning model.

ensure the sustainability of reservation natural resources and, especially, foster the abatement of cultural alienation.

A territorial dimension. Of paramount importance to tribal community development is the improvement to the community's physical, social and economic conditions. Tribal nations can overcome the problems posed by underdevelopment by regaining control over their territorial resources. Tribes that employ approaches analogous to Friedmann's self-reliant development (Friedmann, 1982, 1987) can selectively reduce their dependency relationships with the surrounding regional political economy. This approach is important in tribal planning, as tribal governments must assume a primary role in managing reservation assets. To advance the tribal territorial objective, tribal planning should clearly establish the tribes' reservation community development objectives as well as an effective administrative structure to manage its lands and natural resources.

Constructing the Tribal Planning Approach

Two dimensions comprise the activity of tribal planning—an internal dimension and an external dimension. The internal dimension concerns the determination of a tribe's future as an expression of its sovereignty (Winchell, 1995). Planning's first activity (Figure 2) is to establish the tribal nation's goals and to assess its capacity to carry out those goals. This process incorporates approaches that

articulate the community's interests¹⁶ and should clearly identify the tribe's governing role in the community's development.

The external dimension concerns the tribe's political relationship to outside interests, particularly states and local governments (Altshuler and Behn, 1997; Bardach, 1998). Because these external influences have often pre-empted tribal jurisdiction and the attainment of tribal goals, an approach is needed that relates tribal decision-making to the anticipation of conflicts that may arise from non-tribal governmental interference as the tribe implements its community development programme. These exogenous variables in tribal planning are the most difficult to control since they represent independent political forces that the tribe does not directly control. The external dimension in tribal planning, therefore, addresses the political threats to a tribe's self-determination and seeks to remove political subjugation. To advance tribal goals, new forms of relationship with external governments are needed that will support, rather than preclude, tribal interests.

Parameters of the Tribal Planning Approach

The tribal planning approach is oriented to anticipate opposition from outside forces that may arise in the future-planning environment. The approach combines features of the phenomenological and adaptive approaches in planning to emphasise the consideration of the dynamics in the planning environment. As an adaptive approach, it provides for the selection of strategies that are most responsive to the conditions present in the tribal-planning environment. The approach utilises strategic decision-making to link the tribe's empirical knowledge about its planning situation to the selection of alternative actions that are deemed most effective to those situations.

Figure 2 depicts four phases in tribal planning. In phase I, the tribal nation articulates its community objectives and strategic programmes are prepared. Goal setting (Stage 1) establishes the priorities for the long-term development of the reservation community and identifies the organisational and administrative capacities that are needed to carry out its programmes. The strategic plan (stage 2) translates the selection of goals into specific programmes and actions, and allocates resources for the administration of reservation development programmes. The strategic plan should be an integrated strategy that simultaneously advances the community's political, social, economic and environmental objectives for reservation development. Phase II activities involve the expansion of the tribe's political capacity (Stage 3) to administer its programmes and to exercise political action effectively. Here, the tribal political infrastructure may be expanded to include the enactment of tribal laws, regulations, standards and administrative and enforcement procedures, as well as the authorisation to enter into intergovernmental agreements, where appropriate, to overcome jurisdictional conflicts through co-operative means.

Under Phase III, actions are selected contingent upon the likelihood for their success based on the tribe's capacity to carry out its programmes and the anticipated resistance from external variables. As a strategic activity, it is in this stage that the potential conflicts that may arise during the plan's implementation are identified. Actions that may result in potential conflict (with external variables) are identified (Stage 5) and contingent actions are evaluated, thus, enhancing the tribe's 'preparedness'. In evaluating the tribe's political vulner-

ability, the approach guides the selection of contingent actions based on the perceived threats that may occur in the future planning situation. Alternative actions may include modifications to the tribal programme, strengthening of self-governance powers, confrontational tactics or approaches aimed at resolving pending disputes through negotiation.

Tribal planning requires a clear understanding about the extent of authority that a tribe possesses, especially in reservations that are populated by non-Indian residents. Clarification about the boundaries of tribal authority over non-Indians is provided in two precedent-setting federal court decisions in *Montana and Brendale*¹⁷ which provide guidance to tribes as they develop their self-governance capacity.¹⁸ The structuring of tribal legislation, therefore, necessitates a close legal analysis of the applicable court rulings to ensure that political actions contemplated by the tribe conform to the scope of legitimate tribal powers, especially when such powers are applied to activities affecting non-Indian interests (Goeppele, 1990).

In Phase IV, tribal actions are implemented (Stage 6). If no opposition is encountered, the action proceeds without further alteration. Resistance to tribal actions that are encountered during implementation results in two possible responses. If the form of opposition was earlier anticipated (in Stage 5), then pre-selected contingent actions are employed to counter the resistance (Stage 4). If the condition was not anticipated, the situation is then treated as a new variable (Stage 7) requiring further consideration. The decision process for newly encountered variables should reconsider the strategic plan (Stage 2) as well as the adequacy of the tribe's political capacity (Stage 3). During this stage, the tribal action may be deferred until an appropriate response can be determined. The objective in this final phase is to observe carefully the reactions that result from a tribal action and to employ a contingent response.

Illustrating the Planning Approach: Case Study of the Swinomish Indian Reservation

The planning approach reflects, in part, the experiences of the Swinomish Indian Tribal Community as it sought to advance its community development by strategically expanding its self-governance. Attainment of the tribe's goals—to derive beneficial outcomes from its reservation development—depended upon its ability to assert its land-use control over reservation activities. Before the tribe was able to exercise its authority effectively, however, it acknowledged that it first had to address the conditions that diminished its governing role which led to an active state and local jurisdictional presence on the reservation, whose interests often conflicted with tribal goals.

Land-tenure Conditions

The Swinomish Indian Reservation was set aside by the 1855 Treaty of Point Elliott as a homeland for exclusive tribal use. The tribe was severely affected by the General Allotment Act under which reservation land division and alienation occurred over the relatively short period of a few decades. This resulted in the current checkerboard pattern of reservation land tenure where non-Indians now own about 45 per cent of reservation lands. Despite recent social development gains in many areas, the economic conditions on the reservation continue to be

depressed. Consequently, establishing a viable, self-sustaining reservation economy emerged in the 1980s as the primary community development objective for the Swinomish.

The jurisdictional interests operating within the boundaries of the reservation are highly complex and include federal, tribal, state and county governments. County policies historically encouraged development on reservation lands for non-Indian residential and industrial uses and the state created several utility districts to service these county-permitted urban uses. The inherent tribal right to control exclusively its reservation lands had been, in large part, pre-empted due to the alienated land-tenure condition. As state and local government policies continued to foster non-tribal development objectives, tribal benefit from reservation resources would remain largely unattainable. A strategy that could overcome the jurisdictional conflict was needed before the tribe could successfully advance its own community development goals.¹⁹

Regaining Control over Reservation Resources

The tribe employed a strategic approach to expand its self-governing powers and to pre-empt the jurisdiction asserted unilaterally by outside governments. To re-establish its legislative authority, which had been weakened by decades of federal assimilation and termination policies, the tribe enacted several land-use, utility, natural resources management and environmental protection statutes in the 1970s and 1980s that would apply to all lands within the reservation. As a self-help approach, these actions strengthened its own self-governance and sought to disrupt the political *status quo*. These tribal policies reflected tribal goals and often were at odds with non-tribal policies. When it faced political resistance to the application of its laws, the tribe considered several contingent approaches for resolving the ensuing conflicts. One approach was directly to confront the political intrusion through litigation, but that approach posed risks in terms of an uncertain outcome, high legal costs and the likelihood of continued adversity in relations with adjoining governments. A second approach would seek to resolve conflict through both confrontational and co-operative means.²⁰ The approach was strategic as it acknowledged that the control of reservation lands required the tribe firmly to establish a tribal interest in regulating reservation land-use activities as well as the provision of utilities. The tribe first confronted the state's claimed authority to control water and sewer utilities on the reservation; this was later viewed as a pivotal strategy when in 1990 Washington State enacted a growth management law requiring the concurrent provision of utility services before land development could occur. By controlling reservation utilities, the tribe would also attain *de facto* control over land uses.

To reconcile jurisdictional conflicts over reservation utility services, the tribe entered into several interlocal agreements with local and state governments. Each agreement was structured to advance government-to-government relations as a basis for co-operating in regional planning. A regional water supply co-ordinating agreement signed in 1984 resulted in regional co-operation for public water supply delivery and established the tribe's sole purveyor authority for all reservation lands, thus establishing a permanent tribal interest in decisions concerning future reservation development. Wastewater treatment agreements with the state also recognised the tribe's authority to provide wastewater

utility services throughout the reservation. With these strategic agreements in place, the tribe was then ready to address the more difficult problem of conflicting land-use policy with the county.

Expanding Tribal Land-use Regulatory Authority

The tribe first conducted a legal review of federal legislation and court decisions to determine whether there exists a legal basis for conveying reservation land use to the state or local governments. It also examined whether the federal government had exercised its plenary powers to assume federal zoning on the reservation and whether it transferred these powers to the State of Washington. The research found that no such delegation occurred.²¹ The legal analysis concluded that inherent tribal powers to control reservation land use remained intact, subject to its own tribal constitutional limits. This evaluation represented a situational analysis to gauge the relative strength of the tribe's jurisdiction and to defend such rights should the matter ever become litigated.

Based on the conclusion from its legal inquiry, the tribe exercised its inherent powers by enacting a comprehensive land-use plan in 1972 and a zoning ordinance in 1978. The zoning ordinance anticipated and complied with two important jurisdictional requirements that were later established in the *Montana* decision. On the one hand, it applied equal general protection to all residents of the reservation, regardless of whether they were members of the tribe or non-Indians occupying trust or fee lands. On the other hand, it sought to define clearly and maintain the 'essential character' of the reservation, reflecting tribal priorities for long-term reservation protection.

Although the tribe had exercised its zoning authority since its enactment in 1978, two obstacles prevented the full implementation of the code. The first obstacle was presented by its own constitutional requirement for federal review of tribal legislation, including zoning ordinances. Formal verification of the federal government's approval of the zoning ordinance was not received until 1984, nearly seven years following the tribe's enactment of the code. Because the requirement for Secretarial review was contained in the Swinomish Constitution, the tribe subsequently elected, as a self-help remedy, to remove the requirement by amending the constitutional provision requiring Secretarial approval for tribal legislation.

The second obstacle was the county's exercise of concurrent zoning authority over reservation fee-simple lands under powers presumed valid pursuant to Washington State's Planning Enabling Act. The checkerboard land tenure on the reservation—that is, the ownership pattern containing a mixture of both fee-simple and federal Indian trust title—had resulted in the application of two separate regulatory schemes, as both the tribe and the county administered zoning programmes that affected the reservation's fee lands. Both governments mutually agreed in 1986 to resolve the conflict by embarking on a joint planning programme. The collaborative strategy guiding the effort sought to overcome land-use inconsistencies by achieving a mutually agreeable land-use policy for the reservation.

Reconciling Conflicts in Reservation Land-use Control

The tribe and the county began discussing issues of mutual concern, acknowl-

edging that historical events had created a situation wherein both tribal and non-tribal interests were present on the reservation. They further acknowledged that neither government could act unilaterally without incurring objection from the other party. They recognised that an accommodation would facilitate the development of a longer term working relationship that could later help to address other mutual concerns.²² Following discussions over a six-month period which included a mutual learning programme to enable better understanding of the issues, needs and priorities of each community, the governments signed a memorandum of understanding in 1987 to pursue a process leading to the co-ordination of land-use planning and regulation on the reservation. A comprehensive land-use policy would be jointly developed based on sound planning principles that incorporated tribal goals with concerns regarding absolute jurisdiction assuming a secondary position.

A comprehensive land-use plan for the reservation was developed and forwarded to the tribal and county governing bodies for consideration.²³ The Swinomish Plan was the first comprehensive planning effort attempted between a tribe and a county in the US (Zaferatos, 1998). The plan articulated goals and established policies to guide the stewardship of reservation resources, expressed the cultural significance of the reservation as a finite tribal homeland and outlined a framework for an implementation programme that was later approved in 1998. Each jurisdiction would rely on its own perceived jurisdictional authority, agreeing to defer questions of jurisdiction, if necessary, to a future time. The approach recognised co-ordinated regional planning as a desired outcome, unobtainable under the application of unco-ordinated regulation. It also sought to advance tribal self-determination through a reservation plan that considered the interests of the tribe as well as the interests of the non-tribal population. Although not tested in litigation, the tribe's planning approach strategically incorporated the concerns emphasised in the *Montana* and *Brendale* court decisions by providing for the reasonable consideration of non-tribal property rights interests in regulating the reservation, thereby strengthening its standing under future court scrutiny.

In the Swinomish experience, tribal interests were effectively advanced through a process that began with the clear articulation of the tribe's community development goals and the assessment of political weaknesses that needed to be overcome before the tribe could proceed successfully with its community development programmes. This led to the development of a political and administrative capacity that could effectively confront the unilateral imposition of non-tribal jurisdiction operating on the reservation. The tribe's strategy carefully considered its complex history of political interference and incorporated new approaches, including confrontational tactics and negotiation, to prevent conflicts from arising that might derail the attainment of tribal objectives. The process helped to reverse a history of reservation incorporation by fostering utilitarian relations that accommodated non-tribal interests and contributed to improving social attitudes through a process of mutual learning about the diverse values reflected in both Indian and non-Indian communities. The ultimate goal of the Swinomish strategy was to attain both cultural and political plurality throughout the political region. The outcome of the Swinomish experience demonstrates the importance of considering a tribe's historical circumstances and the use of that knowledge to devise strategies that are adaptable to an uncertain future.

Conclusion

This article presents an approach to tribal community development that combines the consideration of a tribal nation's historical experience with its community development aims. The approach emphasises the identification of conflicts that arise from a tribe's historical relationship with its surrounding region. The planning approach is based on a phenomenological approach that emphasises the dynamics of the tribal planning environment and calls for the continuous assessment of adverse conditions in that environment during plan implementation. Mutual learning is an especially important technique for overcoming adversity in order to communicate the normative goals as well as the political interests of tribal and non-tribal communities. Forming mutually beneficial relationships between tribes and surrounding communities is a necessary first step to achieving regional plurality.

The tribal planning model also emphasises the strategic aspects in tribal decision-making and is pragmatic because it anticipates the likelihood of obstacles in future planning situations. In the process of advancing tribal objectives, strategies are selected that are best suited to the dynamics of that future-planning environment. The model integrates feedback information to assess whether planned actions should be modified in the face of unanticipated resistance. Contingent actions include further improvement to the tribe's political capacity of self-governance, the reconsideration of community goals and strategies, and other adjustments to reconcile conflicts through means of confrontation, negotiation and co-operation. While the Swinomish would have preferred a situation free from any outside interference, circumstances necessitated an adaptive approach to address its jurisdictionally complex situation. Today, these communities continue to practice concurrency in land use management—the continuous engagement of both governments in reservation planning decisions.

The tribal planning approach is intended as a general planning framework aimed at strengthening tribal self-determination by considering the variables that operate in tribal affairs.²⁴ As a conceptual approach, it provides a process for aligning the development of tribal policy with historical considerations. As a strategic approach, it strengthens the capacity of tribal nations directly to challenge political opposition that is encountered. The effectiveness of tribal planning is dependent upon a tribe's capacity to exercise its political will while continuously assessing its planning environment and adjusting its strategies as new circumstances arise in its future planning environment.

Notes

1. American Indian reservation communities are extremely diverse in terms of their cultures, location and political organisation. Planning strategies appropriate to each tribe must be carefully devised to reflect their unique social objectives and political settings.
2. Senghass (1988) equates a community's ability to act autonomously by first conceiving an appropriate set of implementation actions and then marshalling resources necessary to carry out the proposed actions.
3. The Supreme Court recognised the existence of a trust relationship in its earliest decisions interpreting Indian treaties in *Cherokee Nation v. Georgia* (30 U.S. 1, 1831) and *Worcester v. Georgia* (31 U.S. (6 Pet.) 515. 1832).
4. Public Law 280 of 1953, 67 Stat. 588, as amended; 18 U.S.C.A. sec. 1162; 25 U.S.C. sec. 1321–1326; 28 U.S.C. sec. 1360.
5. 25 U.S.C. sec. 331–334, 339, 341, 348, 354, 381.

6. The term 'incorporation' refers to the historical processes that severed the reservation territory from exclusive tribal control. The term also describes the manner in which non-Indian interests have mobilised to resist tribal self-governance.
7. The Indian Reorganisation Act of 1934, 25 U.S.C. sec. 461–479.
8. Federal programmes supported a variety of planning activities with the authorisation of the Department of Housing and Urban Development's 701 comprehensive planning and housing construction grants to the tribes. In the early 1970s, the US Department of Commerce, Economic Development Administration targeted reservations to help stimulate economic development and employment. The federal self-governance programmes of the 1990s furthered tribal self-governance in economic development, land regulation, natural resources management and environmental protection by authorising the delegation of federal programmes to tribes. The emerging tribal self-governance policy model depicts a development approach that emphasises tribal choices and the expansion of tribal technical capacity—in contrast with earlier technical assistance models that relied primarily on the federal government and the private economy to manage reservation resources.
9. Washington State's litigation history reveals a history of jurisdictional conflict, including treaty fisheries litigation in *United States v. Washington* 384 F. Supp. 312, W.D. Wash., 1974, and treaty shellfish litigation in *United States v. Washington*, sub proceeding no. 89-3.
10. Etzioni (1968) describes three forms of social relations: normative relations, utilitarian relations and coercive relations. Normative relations contribute to co-operation when participants share similar norms and seek common outcomes in the planning process. Utilitarian relations seek to avoid or contain conflict, and focus on achieving complementary interests and mutually acceptable outcomes. Coercive relations often result in conflict when the opposing goals of the participants remain unresolved.
11. Strategic planning's application to public policy emerged in the 1960s from its development as a corporate decision-making tool during the preceding decade. The approach, referred to as 'SWOT', assesses a community's strengths and weakness as it prepares to adapt strategies in response to identified opportunities and threats that lie within an organisation's planning environment.
12. *California v. Cabazon Band of Mission Indians* (1987).
13. 25 U.S.C. sec. 450. Public Law 93-638.
14. H.R. 4842, Title II. The preamble to the Act reaffirms Congress's findings that "the tribal right of self-government flows from the inherent sovereignty of Indian tribes as nations, and the special government-to-government relationship" between the federal government and the tribes. The Act provides for the transference of federal trust programmes guaranteed to them in treaties, statutes and other agreements directly to tribal governments and acknowledges the continuing trust responsibility of the federal government.
15. The "Tribal-Federal Government-to-Government Proposal" of 10 June 1993, American Indian Policy Center. Washington, DC.
16. Notwithstanding that among some tribal nations social and political fragmentation may persist and communities should resolve their internal disputes and provide for the fullest participation of their membership in community decision-making.
17. *Montana v. United States*. 450 U.S. 544, 1981; *Brendale v. Confederated Tribes and Bands of Yakima Indian Nation*. 492 U.S. 408, 106 L. Ed. 2d 343, 109 S. Ct. 2994, 1988.
18. In general, tribes that can clearly establish a reservation community development policy that preserves both the 'essential character' of the reservation and the tribe's political integrity, economic security or the community's health and welfare, as defined in the *Montana* test, will have a much stronger defence in a jurisdictional dispute.
19. The tribe's goals, established in the 1970s, sought to develop reservation resources to meet the community's needs for housing, employment, community and spiritual uses while, concurrently, conserving much of the limited land-base for the benefit of future generations.
20. Washington State's Executive Indian Policy served to inspire the approach. The policy emerged following the landmark US Supreme Court decision in *U.S. v. Washington United States v. Washington* (384 F. Supp. 312, W.D. Wash., 1974). In an attempt to reach agreement to implement the fisheries decision, the court mandated that the state and the tribes co-operate in co-management of fisheries harvest. The shift in relations between the state and Indian tribes has since extended to include other areas of governmental co-operation. On 4 August 1989, Washington Governor Gardner and the federally recognised tribes signed the 1989 Centennial Accord to implement a government-to-government relationship. The approach resulted in

institutional changes that affected political, social and economic relationships between tribes and state governments.

21. The analysis also examined federal legislation conveying to the states certain powers over Indian reservations. Public Law 280 (67 Stat. 588, 68 Stat. 795, 72 Stat. 545, 18 U.S.C. 1162, 28 U.S.C. 1360, 1953) provided for the assumption of limited authority by the states over the Swinomish Reservation—which was subsequently retroceded. However, zoning and land-use planning were not enumerated delegations of power under the scope of Public Law 280 (*Oliphant v. Schlie*, et. al. No. 74-2154, 9th Cir, August 24, 1976).
22. This was especially important because the county regulated off-reservation activities affecting fisheries resources, of vital interest to the tribe's treaty fishing rights.
23. Coincidentally, on 29 June 1989, the US Supreme Court issued its decision in *Brendale v. Confederated Tribes and Bands of Yakima Indian Nation*. The decision stated that the county, its jurisdictional interest notwithstanding, must consider the tribal interest in its actions affecting the reservation. The opinion encourages co-ordination between tribes and counties.
24. This article does not sufficiently examine all aspects of the tribal political organisation. The assessment of a tribe's planning situation is dependent upon both accurate information and the capacity to interpret that information before contingent strategies are selected. Future field research is needed to test the approach advanced in this article and to identify the structural weaknesses within tribal decision-making organisations that require further development.

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