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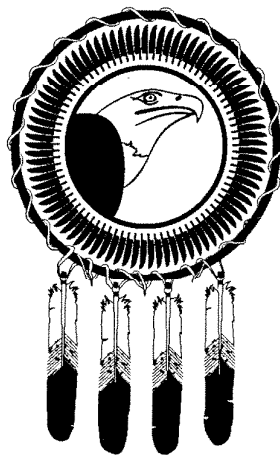
*Buying Back the Land: Land Acquisition  
as a Means to Achieving Tribal Goals  
on the Puyallup Reservation*

by

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*PRS 92-3*

- April 1992



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American Indian Economic Development**

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## EXECUTIVE SUMMARY

In 1991, the Tribal Council of the Puyallup Tribe of Indians in Tacoma, Washington, identified five long-range goals for the Tribe. The first among these was a stated desire to buy back lands within the Reservation which had been previously sold by the Tribe or lost through the passage of the laws and policies of non-Indian governments. For this reason, combined with a requirement by the Land Claims Settlement Act of 1988, the Tribe's Land Use Director is developing a comprehensive land use plan. This report addresses the land acquisition component of the broader land use plan.

### Planning Matrix

The model employed by this report, the "Planning Matrix," links possible Tribal objectives in acquiring land on one axis with the four main regions of the Reservation, on the other.

Possible Tribal goals that land acquisition serves include:

- income generation and economic development;
- fisheries enhancement, environmental preservation, and traditional life; and
- housing and social services.

The four main quadrants of the Reservation include:

- 1) the area south of the Puyallup River;
- 2) the area north of the Puyallup River up to the City of Fife;
- 3) the Port of Tacoma area; and
- 4) the Dash and Brown's Points region.

Linking land acquisition objectives with the defining characteristics of each of the four quadrants provides the Tribe with a powerful planning tool. The Tribe can determine whether a given objective is desirable or feasible in each quadrant of the Reservation. The Matrix also enables the Tribe to plan a long-term acquisition strategy and to be opportunistic when options to buy land suddenly become available.

### Applying the Matrix

An application of the planning matrix to the four Reservation regions enables the Tribe to rank the desirability of acquisition in each quadrant given the three primary Tribal goals. This report finds land acquisition in the Fife and Port quadrants to be the most desirable regions for economic development purposes; Fife and Dash Point, the most desirable for fisheries, environmental, and traditional living purposes; and the area South of the River and Fife, the most desirable for housing and social services purposes. A more detailed analysis of the South of the River region shows that Tribal leadership in land acquisition can serve the housing needs of many Tribal members, from all income backgrounds, and can greatly improve the existing conditions of the quadrant's neighborhoods.

### Implementation and Feasibility

After identifying strategic areas of the Reservation, the report addresses issues of implementation and feasibility and finds that the Tribe possesses the minimum requirements necessary to carry out a land acquisition plan, but a number of conditions could potentially inhibit a plan in action. In addition to minimum legal and financial considerations, successful acquisition will depend upon the Tribe's willingness to commit funds to acquisition, and, to a lesser extent, upon the consultation process with non-Indian land owners and governments.

### Recommendations

The overarching theme of the four main recommendations that emerge from the analysis is that **the Tribal Council must be willing to commit the resources, both financial and human, necessary to proceed with the Tribe's stated goal of reestablishing its land base through land acquisition.** Specifically, the report recommends that the Tribal Council:

1. *Adopt a planning method* through which all land acquisition decisions are guided by Tribal goals and information about specific Reservation lands.
2. *Commit a percentage of current gaming revenues and general Tribal revenues* annually to a land acquisition fund, to be administered by the Land Acquisition Office (see below).
3. *Establish a Land Acquisition Office* to coordinate, conduct, and monitor land acquisitions for the entire Tribe.
4. *Recognize the importance of having enough personnel* to realistically implement a land acquisition strategy.

The Tribe now has tremendous opportunities both to regain ownership and control of its traditional lands, and to achieve its long-term community goals. To take advantage of this opportunity requires action beyond the Council's stated desire to buy back traditional Tribal lands. It also requires the development of the organizational capacity and a commitment of financial resources necessary to execute a land acquisition plan. The risk of not doing so is that outside developers or investors and/or non-Indian governments will be more determinant of the outcomes for Tribal lands than the Tribe itself.



## Part 1

### Introduction

#### Tribal Land Use Challenges

In 1991, the Tribal Council of the Puyallup Tribe of Indians in Tacoma, Washington, identified five long-range goals for the Tribe. The first among these was a stated desire to buy back lands within the Reservation which had been previously sold by the Tribe or lost through the passage of the laws and policies of non-Indian governments. For this reason, combined with a requirement by the Land Claims Settlement Act of 1988, the Tribe's Land Use Director is currently developing a Comprehensive Land Use Plan. The general theme of the Comprehensive Plan is to develop methods by which the Tribe can think strategically, engage in participatory planning, cooperate with neighboring governments, and develop the capacity to assume the long-term perspective necessary to protect the value of their assets.

This report is one component of the Comprehensive Land Use Plan and follows an analysis completed in 1991 by two Harvard University graduate students. Nissenbaum and Shadle recognized the limitations of not owning land, and wrote:

As long as large portions of the reservation are owned by non-Indians and governed in practice by a variety of municipalities and two counties [sic], the tribe will not be able to assign standard residential, commercial, and industrial zone designations on the reservation in any legally meaningful way. (Nissenbaum and Shadle 16)

The authors advocated a Tribally-tailored comprehensive permitting system as one way for the Tribe to exert authority over their lands. In contrast, in this report, land acquisition is evaluated as an alternative way for the Tribe to gain greater control over land use and to achieve its broader goals.

In all, this report is intended to help the Tribe to think critically about land acquisition

as one means of achieving Tribal goals. The report provides an analytical framework that can be used to evaluate potential land acquisitions in the different areas of the Reservation, considering each area's unique demographics, assets, obstacles and opportunities. Finally, this report explores some of the issues relevant to the implementation of a land acquisition plan.

### Methodology

The primary analytic framework of the report is one which examines separately two components of a land acquisition strategy, links them together, then explores the necessary implementation requirements. The first component explores what goals the Tribe might hope to achieve through land acquisition. The second component divides the Reservation into four main planning areas and identifies the key defining features and demographics of each. The linkage between the two components – goals and the four planning areas – helps to determine whether, in different areas of the Reservation, land acquisition is desirable. The report then discusses issues of implementation and feasibility and illustrates how the planning model can be applied to an actual area of the Reservation given potential Tribal objectives. Finally, the report ends with general recommendations that follow from the analysis.

### A Brief History

This year, 1992, marks the 200th anniversary of the first recorded contact between the Puyallup people and white settlers. During most of the past 200 years, white settlers and federal Indian policy have systematically expropriated Puyallup land.

The Treaty of Medicine Creek first created what was supposed to be a 1,280 acre Puyallup reservation on the south side of Commencement Bay. The Tribe, though, never received the promised lands and instead received a parcel inland from the Bay. After a two-year war,

President Franklin Pierce signed an executive order granting the Tribe a 23,000 acre reservation. Again, however, the Tribe received only 18,000 acres (the original survey notes were claimed to have been lost and destroyed in a fire).

In 1887, the Dawes Severalty Act, also known as the allotment act, divided most of the Puyallup Reservation in an attempt to assimilate the Indians and turn them into farmers. (Svinth 42) At that point, early settlers recognized the value of the land and potential for exploitation of the Tribe: "The great and increasing value of the land belonging to the Indians of the Puyallup Reservation makes it an object of desire to the covetous and avaricious." (Eels in Castille 22) In the years that followed, railroad companies, land companies, lumber interests, and the government managed, through a series of ethically questionable events, to acquire nearly all of the Puyallups' land. By 1910, the Tribe had lost all but 35 acres of their land. The status of the land changed little over the subsequent 60 years.

The more recent history of the Tribe revolves around the Tribe's assertion of their fishing and property rights. In 1970, 400 armed Puyallups occupied river-side camps for 6 weeks in an attempt to reclaim fishing rights. This confrontation with state wildlife officials eventually led to the 1974 landmark Boldt decision, which gave 20 Tribes the right to 50 percent of the salmon and steelhead in their traditional fishing grounds in the Puget Sound region. Later, in 1976, Puyallup members successfully took over a state building located on the former site of the Tribe's Indian hospital. (Pacific Magazine) Today the building and site are home to the Tribe's Headquarters.

Most recently, in 1988, the Tribe ratified a land claims settlement with a number of non-Indian governments and private land owners.<sup>1</sup> The Agreement was the result of a four-year

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<sup>1</sup> Puyallup Tribe of Indians. Agreement between the Puyallup Tribe, Local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners. August 27, 1988.

negotiation which ultimately redrew the Puyallup Reservation boundaries as they were in 1854. The Agreement also transferred to the Tribe \$162 million in property and payments. (Please refer to Appendix A for a complete description and break-down of Settlement funds.) Although the newly redrawn Reservation boundaries encompass 18,000 acres, the Tribe only owns approximately 900 total acres, both inside and outside the Reservation.

### Modern Setting<sup>2</sup>

Today's Puyallup Reservation is characterized by a broad variety of inhabitants, land uses, and jurisdictional controls, and is centered in an economically robust region. The Puyallup Tribe itself provides a variety of health and educational services to many of the region's over 10,000 Native Americans.<sup>3</sup> All of the Reservation's 18,000 acres are located within Pierce County, approximately 30 miles south of Seattle. The fastest growing area in the Puget Sound region, Pierce County was home to 586,203 people in 1990, an estimated 20.7 percent above the 1980 population level. The Reservation boundaries encompass all of the City of Fife, sections of the cities of Tacoma and Puyallup, and unincorporated areas of Pierce County. The economy of the region continues to be strong, as evidenced by the growth in trade in the Port of Tacoma and numerous other economic indicators.

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<sup>2</sup> Data from this section were drawn from 1990 Census reports, a Tacoma-based real estate broker, and Tacoma-area newspapers.

<sup>3</sup> The Tribe operates the Puyallup Tribe Health Authority, a substance abuse treatment center, the Chief Leschi School, and the Northwest Indian Community College.

## Part 2

### Why Buy Land?

Land is a very valuable and uniquely powerful asset for any people, and is especially important for the Puyallup Tribe. For the Puyallups in particular, land offers several benefits: sovereignty; fisheries enhancement, environmental preservation, and the restoration of the option to lead traditional lifestyles; income generation and economic development; a place for housing and social services; and a lasting gift to future generations of Puyallup people. This section, the first component in the planning framework, explores each of these goals and objectives as it relates to land acquisition.

#### Sovereignty

The current jurisdiction over Reservation lands, which splits control between the Tribe and a variety of local governments, is draining Tribal energies and resources. Land acquisition is one way to transfer those Tribal resources to more certain outcomes and productive uses.

The Land Claims Settlement of 1988 redrew the Puyallup Reservation boundaries, as they were in 1873, for program planning purposes. In addition, the settlement returned approximately 300 acres to the Tribe. Although the Settlement was a historic and critical step, it in no way guarantees the Tribe control over the use of the land within the Reservation. The agreement states:

The jurisdiction of the Puyallup Indian Tribe shall extend to the existing and future restricted and trust lands... the Tribe agrees not to assert or attempt to assert any type of jurisdiction and governmental authority, existing or potential...as to any non-trust lands... (Agreement 18-19)

The agreement does, however, provide for a consultation process and states that involved Indian

and non-Indian parties must work together cooperatively, where possible on land use issues. Ultimately, however, non-Indian governments maintain jurisdiction over non-trust lands, while the Puyallups retain jurisdiction over trust land.<sup>4</sup>

Because it is still relatively soon after the Agreement, the consultation process between the Tribal and non-Indian governments has not yet been thoroughly tested. However, one recent example of a proposed substantive action by a non-Indian mental treatment facility is a useful illustration of the limits of the consultative process. Despite apprehension and opposition by Tribal members living near the proposed facility, it was found that the Hospital had full rights to build on the site.

Finally, it is very costly in terms of Tribal personnel hours to screen and critique the numerous and complex substantive actions that are put forth by non-Indian governments. Land acquisition would shift Tribal resources away from simply reacting to and monitoring the actions of those outside the Tribe, and toward a much more proactive establishment of the Tribe's regulatory authority.

In all, one good way to increase the Tribe's post-settlement regulatory authority is through acquiring land and placing it in trust.<sup>5</sup>

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<sup>4</sup> The Agreement states:

The parties agree that when the Tribe or any general purpose local government which is a party to this agreement receives an application for trust or a permit which is defined as a "substantial action" in Document 7, or itself proposes to take a "substantial action" concerning property located within the 1873 Survey Area, the issuing government agency will notify the other affected governments and give an opportunity for consultation and discussion. This consultation process applies to any land proposed for future trust status, or to a change in use on trust property. Each government retains the right to make the final decision on every such matter. (Agreement. VIII.C. 22)

<sup>5</sup> Although trust status is the avenue through which the highest degree of control can be exerted, it should be noted that there are still some limitations on the land's use. For example, the trust lands are still governed by federal environmental regulations and those concerning the use of waterways.

### Fisheries, Environment, and Traditional Life

Land acquisition is one way to enhance fisheries, protect the physical environment, and improve the possibility of restoring traditional lifestyles and opportunities to Puyallup members.

Fishing is central to traditional life and is a key aspect of environmental preservation and improvement. Because members depend on fishing as a means of subsistence and income generation, both the cultural and economic well-being of some of the Tribal members are directly proportional to the strength of the runs of salmon and steelhead. However, the systematic degradation of the land in and around the Reservation has greatly reduced the number of fish in the Puyallup River and in Clear, Swan, Clear, and Wapato Creeks.

The Fisheries Division estimates that at one time a typical Chinook salmon run in the Puyallup River was 16,000-20,000 salmon – today a typical run is 900. Similarly, in 1991, Tribal members caught approximately 20,000 Coho salmon – far lower than the average annual catch of 50,000 Coho and the lowest amount since 1975 when data collection on salmon run began. Although the factors contributing to the decline of wild and hatchery fish are complex, protecting and acquiring key habitats helps to restore run strengths and protect wildlife.

A broader interpretation of "traditional life" can be found in the *Traditional Resource Management Handbook* drafted by Jeff Thomas of the Fisheries Division of the Puyallup Tribe. Thomas describes specific traditional livelihoods as hunting, clam digging, berry gathering, root digging, carving, trapping, tanning, etc. In the Handbook, Thomas states:

As one explores the meaning of physical resources with the various tribal individuals, most evident, and prevalent, among tribes and their administrations is the desire to protect, enhance, and restore physical resources to their "traditional condition."

If the Tribe is to succeed in restoring the option for its members to lead traditional ways of life, then the highest possible degree of control over Tribal lands is absolutely essential.

### Income Generation and Economic Development

Tribally-owned trust land offers the Tribe several advantages in terms of income generation and economic development. In many circumstances, trust land and certain activities taken on it are exempt from many federal, state, and local laws concerning taxation and civil regulation. These exemptions provide one of the most obvious and significant advantages to land acquisition and ownership. Indeed, this is why so many outside developers and corporations seek to operate on trust lands. Thus, financial benefit and jobs creation resulting from land acquisition can be gained either directly from the Tribe's own operations, such as bingo halls, or indirectly through a portion of revenues or lease payments paid to the Tribe by outside corporations operating on Tribal lands.

### Housing and Social Services

Currently, the Tribe uses a portion of Tribally-owned lands for the provision of social services, such as a drug and alcohol treatment center, and for elder and low-income housing. A strategic land acquisition plan may enable the Tribe to coordinate assorted social service, housing, and educational activities. For example, the Tribe recently purchased a 36 acre site for the construction of the new Chief Leschi School. Through strategic acquisitions near the School property, the Tribe could consolidate land in adjoining neighborhoods for such uses as mixed-income Tribal housing, recreational playing fields, and Tribal businesses, effectively building a Puyallup neighborhood.

### Investment for Future Generations

Finally, land acquisition can provide a long-term asset base for future generations and serve as a complement to other Tribal priorities. In the language of investment theory, land can

be interpreted as a way for the Tribe to diversify its asset holdings. By investing in a combination of assets (such as investments in facilities and equipment, stocks, land, etc.), the Tribe spreads the risk of losing money. The Tribe's optimum investment portfolio may include, for example, a mix of per capita payments to individual Tribal members, investments in the reconstruction or rehabilitation of the Headquarters Building, the provision of social services, and land. Thus, an appropriate asset portfolio, with land as one of its components, is one way to ensure the long term security of and return on assets. The portfolio mix will depend on the Tribe's short term and long term goals.

## Part 3

### Reservation Area Profiles

This section, the second component of the planning framework, is designed to educate readers about the existing and proposed uses and conditions of Reservation land, both by Indian and non-Indian communities.

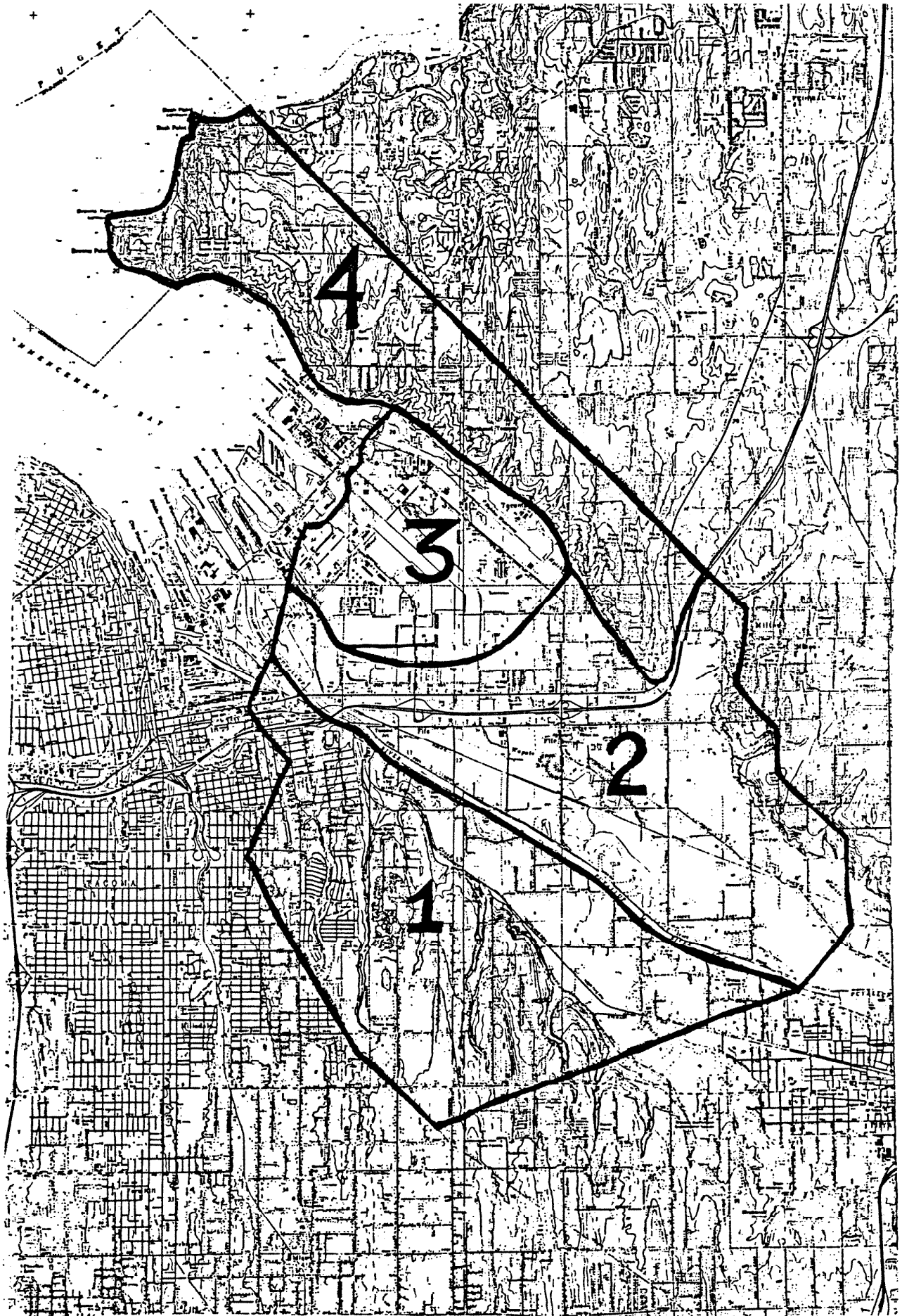
The Reservation as it exists today is comprised of areas used for a broad variety of purposes – industrial, residential, commercial, and recreational. Because there appear to be natural divisions in the existing types of land uses, and for planning purposes, the Reservation can be divided up into four main areas: (See map on following page.)

1. land south of the Puyallup River;
2. land north of the River to just north of the Interstate-5 Freeway;
3. land in the Port of Tacoma; and
4. land on Brown and Dash Points.

For the sake of simplicity, from here forward the four planning areas shall be referred to as South of the River, Fife, the Port, and Dash Point. The following section profiles each of the four quadrants with reference to geographic distinctions, Tribal ownership, Indian and non-Indian population statistics, typical real estate prices, and key policy issues and considerations.<sup>6</sup> The format for the following Study Area Profiles is modeled on work done concerning land use planning on the Flathead Reservation. (Confederated Salish & Kootenai Tribes 1988, 14)

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<sup>6</sup> These profiles have been developed for the purposes of this paper using the best possible approximations of the necessary data. Unfortunately, precise data about Tribal and non-Tribal populations residing in each area, real estate prices, growth trends, etc. were not readily available. It was therefore necessary to develop rough proxies for some of the desired information. Please refer to Appendix B for the methods and sources used to estimate and compile the information shown in the profiles.



## SOUTH OF THE RIVER

### Study Area Profile 1

The area south of the Puyallup River is home of the Tribal Headquarter site, a Tribal Fish Hatchery, wetlands, neighborhoods of small, single-family homes, and the future site of the new Chief Leschi School. Compared to its neighboring planning areas, the area has a more suburban, and in many places a more rural, atmosphere. There is minimal commercial activity, with the exception of a few smokeshops and mining operations. In recent years, the City of Tacoma has intentionally down-zoned Portland Avenue near the Headquarters to reduce the incidence of crime and vandalism in the area.

### Summary Description

Tribal Ownership (acres in trust): 100

#### Housing:<sup>7</sup>

- Median Home Value:	\$83,367
- Median Rent:	\$338/month
- Total Number of Housing Units:	9,758
- Percent who own:	63.6
- Percent who rent:	36.4

#### Population:

- Puyallup:	197
- non-Puyallup Indians:	685
- non-Indians:	25,094
- TOTAL	25,976

#### Communities:

Majority of land in Study Area contains unincorporated parts of Pierce County; part of Puyallup; part of East and North-east Tacoma.

### Key Areas, Activities, and Issues<sup>8</sup>

1. Lower Clear Creek critical wetlands area and great functional value to fisheries.
2. Swan Creek has suffered from run-off and requires revegetation and stabilization.
3. State-owned hatchery on Upper Puyallup River (off map). Potential purchase for Tribe.
4. Mining operations have historically created potential water run-off problems.
5. Neighborhood adjacent to headquarters, around 29th Street known for drug trade and accompanying hazards.

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<sup>7</sup> The figures shown here are weighted averages for the five census tract areas in the South of the River Study Area. However, if one separates the two census tracts nearest the Headquarters site, one finds very dramatic differences. For example, if one averages only the two census tracts nearest the Headquarters, one finds that the median house value is \$56,059, rent \$236/month, and a rate of rental tenure of 69 percent. In one census tract near the Headquarters, only a startling .4 percent of residents own their residence. Please refer to Appendix B for a complete breakdown by census tract.

<sup>8</sup> Information for this section was provided by staff members from the Fisheries Division.

6. South of the River area, in general, has poorly developed infrastructure compared to other areas of the Reservation.

## **FIFE**

### **Study Area Profile 2**

The City of Fife is located entirely within the Reservation boundaries and is highly commercial and industrial. In recent years Fife has assumed an aggressive annexation policy of unincorporated areas adjacent to Fife, which may help to explain the phenomenal growth Fife has experienced between 1980 and 1990. It was the single fastest growing area of Pierce County during this period, with a population growth rate of 112.0 percent. Accordingly, Fife also had the highest growth rate in housing units, at 128.6 percent. The area is also characterized by existing and proposed transportation corridors.

### Summary Description

Tribal Ownership (acres in trust):	57
Housing:	
- Median Home Value:	\$90,962
- Median Rent:	\$416/month
- Total Number of Housing Units:	7,174
- Percent who own:	56.1
- Percent who rent:	43.9
Population:	
- Puyallup:	52
- non-Puyallup Indians	325
- non-Indians:	15,428
- TOTAL	15,805

### Communities:

All of Fife; part of Milton; unincorporated parts of Pierce County.

### Key Areas, Activities, and Issues

1. Proposed SR (State Road) 167 Corridor Adoption connecting Puyallup with Proposed SR 509 Corridor. Earliest starting date for construction is 1995, completion in 2000 if funding is available.
2. A local real estate company reports that while the stock has been relatively constant, vacancy for office space in Fife and Tacoma has been falling steadily in recent years, from 25 percent in 1988 to 11 percent in 1991.
3. Type I (i.e., highest quality) wetlands north of River (where 62nd and 82nd Streets would intersect River).
4. Protection and rebuilding of Wapato Creek as viable fish run is included as part of Agreement between Fife and the Tribe.

## PORT OF TACOMA

### Study Area Profile 3

The Port of Tacoma is the most highly industrialized area of the Reservation. The Port offers many advantages: it is the sixth largest container Port in North America; it has one of only two on-dock intermodal railroads in North America (allowing direct transfer of containers between ship and rail); it is the fastest growing seaport on the West Coast; and it is a critical international water-gateway to the U.S.

### Summary Description

Tribal Ownership (acres in trust): 207<sup>9</sup>

#### Housing:

- Median Home Value:	\$55,000
- Median Rent:	\$350/month
- Total Number of Housing Units:	142
- Percent who own:	76.1
- Percent who rent:	23.9

#### Population:

- Puyallup:	2
- non-Puyallup Indians:	19
- non-Indians:	253
- TOTAL	274

#### Communities:

The Port of Tacoma contains few residential dwellings. Exceptions are parts of Fife, and part of North Tacoma.

### Key Areas, Activities, and Issues

1. Blair Backup Property designated as Foreign Trade Zone (FTZ #86) – potentially very lucrative.
2. Inner Hylebos Property contains marina and log storage site.
3. Upper Hylebos Property is location of new commercial marina being developed by Puyallup International Incorporated (PII).
4. Superfund site on Blair Waterway Property slated to be clean within 3 years after the Agreement, though actual clean-up length is difficult to predict.
5. Blair Waterway Project will deepen and widen the Waterway, and build new bridge.

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<sup>9</sup> Please refer to Appendix C for a break-down and description of the Port properties.

## DASH POINT

### Study Area Profile 4

Perhaps of all the main planning areas, the Brown and Dash Points region is the most protected from commercial, industrial, and residential development. There is a relatively large amount of open space and coastline along Commencement Bay. The high cost of land in this area may likely explain the preservation of open space and low-growth pressure.

### Summary Description

Tribal Ownership (acres in trust): 10

#### Housing:

- Median Home Value:	\$130,484
- Median Rent:	\$556/month
- Total Number of Housing Units:	3,970
- Percent who own:	78.9
- Percent who rent:	21.1

#### Population:

- Puyallup:	36
- non-Puyallup Indians:	93
- non-Indians:	10,241
- TOTAL	10,370

#### Communities:

Northeast Tacoma; Fife Heights; Indian Hill; and unincorporated parts of Pierce County.

### Key Areas, Activities, and Issues

1. Only Tribally-owned waterfront property that remains undeveloped.
2. Dash Point State Park has public access dock and boat launching site.

## **PART 4**

### **The Planning Matrix: Linking Goals and Area Profiles**

The four study area profiles reveal a broad variety of land uses, property and housing values, demographic patterns, and cases of Tribal ownership. When linked with Tribal goals, one may find that in different areas of the Reservation, certain goals may or may not be readily achievable or desirable. This section provides an analytic framework that links two of the previous sections – goals and profiles.

The Tribe may say that one of its goals is economic development. However, the Tribe may have much more difficulty determining what cost it would be willing to pay for economic development. For example, would it be willing to build a hotel or casino on a site near the Puyallup River if it meant the extinction of a species of salmon in the River? Such valuations can be very difficult to express, but even a qualitative ranking of relative valuations can be extremely useful in ensuring that Tribal resources are allocated according to Tribal principles and beliefs.

#### Uses of the Matrix

The Planning Matrix framework will help the Tribe to weigh various goals against one another, and to evaluate different acquisition sites across the four quadrants of the Reservation.

To illustrate, suppose one of the Tribe's goals is to provide additional Tribal housing and suppose there is a proposal to build in the Brown and Dash Point planning area. The matrix and Study Area Profiles illustrate, however, that land in that area is very expensive and few Tribal members live in the area. Thus, it may not be a wise idea for the Tribe to acquire land in the Dash Point area for the purpose of fulfilling the Tribe's housing goals. Land in the Dash Point area may, however, be very suitable for other purposes.

Overall, the primary purpose of the Planning Matrix is to build the Tribe's capacity to make informed and intelligent decisions about land acquisition. Specifically, the Matrix can be used to assess the viability of a proposed project, to target key land acquisition areas, and to ensure the congruence of Tribal goals and existing and proposed land uses. Finally, the Planning Matrix allows the Tribe to be opportunistic, and to act quickly and wisely, when the options to acquire land become available. In all, it helps to identify those areas where the Tribe can add the greatest value.

## THE PLANNING MATRIX

← GOALS →

PLANNING AREAS	Income Generation and Economic Development	Fisheries Enhancement, Environmental Preservation, and Traditional Life	Housing and Social Services
<b>South of River</b>	(-) may not be viable until surrounding neighborhoods are stabilized. (+) may help to stabilize neighborhoods. (+/-) requires cooperation between PII, housing, land use. (-) poorly developed infrastructure in many parts.	(-) fewer development pressures in the most southern part. (-) creek areas were at one time viable fishing areas, but are no longer highest priority areas for Fisheries Division.	(+) overwhelming majority of members living on or near the Reservation live in this area. (+) near Tribal services and Chief Leschi School. (+) houses would be relatively cheap to acquire. (-) poorly developed infrastructure in many parts.
<b>Fife</b>	(+) contains major transportation corridor. (+) major population growth.	(+) several properties identified by Fisheries Division as priority habitats.	(+) relatively less expensive housing prices. (+) second highest number of Puyallups live in area.
<b>Port Property</b>	(+) PII opening commercial marina - could develop complementary activities. (+/-) requires cooperation with PII. (-) high commercial and industrial property prices. (+) multi-modal transportation access. (-) toxic waste issues could become liability to Tribe.	(-) Tribe agreed in Settlement to ...[Blair waterway project] (-) extreme industrialization and pollution makes fishing in area difficult. (-) toxic waste issues could become liability to Tribe.	(-) not near existing Tribal social services. (-) very few members live in this planning area. (-) toxic waste issues could become liability to Tribe.
<b>Dash Point</b>	(-) minimal transportation access makes inhospitable to commercial development. (-) expensive property.	(-) few development pressures even without Tribal involvement. (+) increased coastal access desirable for cultural and recreational reasons.	(-) expensive property. (-) very few members live in this area.

(+) indicates reason why land purchase may be desirable/necessary in given area.

(-) indicates reason why land purchase may not be desirable/necessary in given area.

### Interpreting the Matrix

The Matrix, though necessarily subjective and simplified, can be used to evaluate proposed land acquisitions in each of the four planning areas, given an underlying goal. The following preliminarily ranks each of the four planning areas according to the three major goals:

#### **GOAL: Income Generation and Economic Development**

1. Fife
2. Port
3. South of the River
4. Dash Point

#### **GOAL: Fisheries Enhancement, Environmental Preservation, and Traditional Life**

1. Fife
2. South of River
3. Dash Point
4. Port

#### **GOAL: Housing and Social Services**

1. South of River
2. Fife
3. Dash Point
4. Port

### **Income Generation and Economic Development**

At present, the two most economically active areas of the Reservation are the Fife and Port planning areas. In the short-term, land acquisition for commercial purposes in the Fife quadrant may be strategic because of its burgeoning population, central location, and access by Interstate-5 and proposed SR-167.

The Tribe's existing Port properties already enjoy many of the potential benefits offered by the Port planning region (ie., access to the Blair and Hylebos Waterways, designated Foreign Trade Zones, and multi-modal transportation access). Furthermore, because most Tribally-owned Port sites have yet to be developed, it may not be particularly useful for the Tribe to acquire additional Port property in the short-run, unless the property is a necessary and integrated part

of a larger economic development plan.<sup>10</sup>

Land acquisition for economic development in the South of the River area may be possible, though there is little existing commercial and industrial activity and infrastructure is weak. Perhaps agricultural land could be used for economic development purposes.

Finally, limited transportation access and the expense of real estate make land acquisition in the Dash Point planning region less attractive for economic development purposes.

### **Fisheries Enhancement, Environmental Preservation, and Traditional Life**

Employees in the Tribe's Fisheries Division have identified several sections primarily within the Fife and South of the River planning areas that are critical to wild and hatchery fish. Because of the extent and complexity of the fisheries data, it was not possible to incorporate it in this preliminary analysis. However, it is critical in determining key wetlands and riparian zones.

In terms of prioritizing critical habitats for acquisition, the Tribe may wish to develop, under the leadership of the Fisheries Division staff, a set of acquisition principles. For example, does the Tribe want to acquire those areas where it has the best chance of preserving a given species of wild salmon? Or is it interested in increasing the total number of hatchery and wild fish for financial benefit of the members? Answering these sorts of questions require both the technical expertise of the fisheries staff and the value judgments of the Tribal members.

Dash Point offers the Tribe direct coastal access -- an important part of the restoration of traditional life. In addition, the relatively undeveloped nature of the Dash Point planning region lends itself to continuing preservation efforts. While purchasing land in the region helps to

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<sup>10</sup> Please refer to Appendix D for a more thorough analysis of economic development option for the Tribally-owned Port properties.

ensure preservation, the evidence also suggests that even without Tribal intervention, the area may stay relatively protected for excessive development. Specifically, the high real estate prices in the area tend to limit growth. This, of course, also means that the Tribe itself would face high purchase prices if it wanted to buy in the area.

### **Housing and Social Services**

Because of its proximity to existing Tribal services, the residential patterns of Tribal members, and the lower cost of property prices in the region, the South of the River planning area appears best suited to land acquisition for housing and social services provision. This particular case is discussed in much greater detail in a subsequent part of the report.

### **Adapting the Matrix for Tribal Use**

The Tribe is urged to rework the interior of the Planning Matrix to include criteria that may have been omitted from this analysis. For example, it may be useful to know which species of wildlife reside in each area, approximately how many of a given species exist in the areas, and their status (ie., endangered, extinct, etc.). The following is a brief listing of some of the other types of information that might tailor the Matrix more to Tribal needs:

- culturally significant areas;
- ecological factors such as erosion and contamination;
- critical wildlife and fisheries habitat; and
- wetlands and riparian zones.

Other criteria and measures can be incorporated in the Matrix when appropriate. And while there is some benefit to being comprehensive, the use of the Matrix depends to a large extent on simplifying the process to include only the most relevant and important criteria.

## Part 5

### Can Land Acquisition Be Implemented?

Once goals have been established and different areas of the Reservation studied, it is necessary to determine whether a land acquisition strategy can actually be implemented. One component of implementation concerns the legal and financial feasibility of land acquisition. A second component of implementation concerns the internal political environment that must be satisfied and external environment that must be recognized for land acquisition to occur. The following section addresses these two components.

#### Legal Feasibility and Trust Status

Like any private party, the Tribe has the right to purchase land within or outside the Reservation. A question arises, however, concerning the regulatory authority over Tribally owned land. If the Tribe (or any member of the Tribe) purchases land, it is considered "fee land," in which case the Tribe (or Tribal member) holds full title to the land. The Tribe may, however, apply to the Department of the Interior to have the land placed in trust status, in which case the U.S. government holds title to the land.

A general comparison between trust and fee property is shown in the table below. It must be noted that the purpose of the table is to illustrate some of the advantages to trust status to those people who are unfamiliar with the differences between trust and fee lands. By no means is this a full legal description, for indeed there are many complexities and exceptions not discussed here.

TABLE 1: Comparison of Trust Land and Fee Property

TRUST LAND	FEE PROPERTY
United States government holds legal title in trust for Tribe or individual Indian.	Tribe or individual tribal member holds legal title to land.
Having land in trust offers some tax advantages or exemptions.	Income generated on land is not exempt from federal, state, and local taxes.
Tribe retains significant regulatory authority (e.g., Tribe has the power to rezone the land to meet its own development needs). <sup>11</sup>	Tribe does not have regulatory authority (e.g., tribe does not have power to rezone the land to meet its own development needs).
BIA must approve trust application.	BIA is not involved.
It is often difficult to obtain a mortgage against trust land because lender cannot take over land in case of default.	There may still be some restrictions on alienation or encumbrance.

Source: Nissenbaum and Shadle (1991); BIA Code of Federal Regulations (1989); and conversations with Tribal Attorney John Bell.

Thus, trust status offers significant advantages and by acquiring land, then placing it in trust, the Tribe can achieve significant regulatory control and financial benefit.

### Placing Land in Trust

The next feasibility issue is one of determining the relative ease or difficulty of placing land in trust. In theory, the process for placing land in trust status is as follows:

- The Tribe purchases or conditionally purchases the land;
- The Tribe and non-Indian governments engage in the Settlement-mandated consultation process;
- The Tribe files an application with the Bureau of Indian Affairs (BIA) to place the property in trust. The following is a partial list of the issues the application must address, as required by the Department of the Interior Code of Federal

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<sup>11</sup> Although the Tribe can regulate land uses, the Tribe still must abide by some Federal requirements concerning land use, such as Environmental Protection Agency (EPA) regulations.

### Regulations:

- a. the Tribe's need for additional land;
  - b. the intended use of the land;
  - c. the impact on the State and local governments' tax rolls; and
  - d. any actual or potential jurisdictional conflicts concerning land use. (Part 151, Section 10)
- The BIA notifies the state and local governments of the application and gives the non-Indian governments an opportunity to respond to the application; and
  - The BIA reviews the case and either grants or denies trust status.

It must be noted that the steps in the application process are not necessarily sequential; in fact, several of the steps can happen in a different order or even simultaneously. For example, the Tribe could purchase land conditional on the BIA's approval of the application.

In practice, because of the large number of trust applications filed or for other administrative reasons, it may take many years for the BIA to review and reach a decision about a property's trust status. Recently, however, a BIA employee has been working on-site at the Puyallup Reservation and the Tribe hopes that this will help to expedite the trust application process.

### Financial Feasibility

Perhaps more than any other element, a successful land acquisition plan will depend upon the availability of funds and the Tribe's willingness to commit those funds. This section is designed to help the Tribe think about what sources of funds might be available to finance land acquisition and what the magnitude of those funds might be. The following table identifies the primary sources of land acquisition funds and estimates the magnitude of each.<sup>12</sup>

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<sup>12</sup> Please refer to Appendix G for a description of several low-cost alternatives to purchasing land.

TABLE 2: Sources and Magnitudes of Funds for Land Acquisition

SOURCE	MAGNITUDE
Land Claims Settlement of 1988 allotted funds for the purchase of <u>cultural lands</u> , forest, and open space.	\$500,000 was allotted for the purchase of 600 acres off the Reservation. This money has not yet been spent, is accruing interest, and is currently available.
<u>Fisheries Enhancement Program</u> segment of the Settlement includes funds for site acquisition.	Fund has approximately \$7.9 million, however funds must be spread among five other fisheries enhancement measures.
<u>Economic development</u> and land acquisition funds allotted from the Settlement and other revenues generated by the Tribe's economic development organization, Puyallup International Incorporated (PII).	Tribe received \$9.5 million to develop Tribal lands and make future land purchases.
<u>Gaming revenues</u> from the Tribe's own bingo hall and annual cash flow from lease payment revenues on a potential non-Tribally owned and managed Class III gaming operation. <sup>13</sup>	Casino payment revenues to the Tribe are likely to be 60 percent of operating profits. Estimates vary – some say the Tribe could expect at least \$25-30 million annually in first 5-7 years. <sup>14</sup> No estimates are available yet on bingo hall revenues.

<sup>13</sup> The Tribe has just recently signed "an agreement to agree" with Mirage Resorts of Las Vegas, Nevada. (Wall Street Journal, February 14, 1992) Mirage and the Tribe are now pursuing a gambling compact with the State of Washington enabling Mirage and the Tribe to build a Class III gambling operation (ie., big stakes casino) on or near the Reservation. It is estimated that the compact process may take 18-24 months.

<sup>14</sup> The New York Times reported that Stephen A. Wynn, president of Mirage Resorts, said that one of his Las Vegas properties alone made more than \$200 million in operating profit last year. (New York Times, March 12, 1992)

One possible explanation for the low \$25-30 million estimate is that amortization period for construction loans is likely to be 5-7 years. Hence, operating profits in the early years of the Casino's operation may be lower than those in later years.

General Tribal revenues raised through tax and licensing fees from smokeshops, bingo halls, firework stands, other member-owned businesses, and fishing.

Tribe collects 17.5 percent tax on the gross revenues from businesses located on trust lands.<sup>15</sup> It also collects an estimated \$4 million from fishing-license fees paid by members.<sup>16</sup>

### Land Settlement Funds

Three of the funding sources described above were the direct result of the Land Claims Settlement. In each case, the funds are targeted for land acquisition for specific purposes. (Note, however, that purchasing cultural lands could potentially overlap with acquisition for fisheries and traditional life.) It may be legally difficult, therefore, to place Settlement funds in a general land acquisition fund. Nevertheless, the funds are currently available for land acquisition. The key here is integrating land acquisition efforts among the various divisions of the Tribe responsible for each of these three Settlement funds.

### Gaming Revenues

Gaming revenues are comprised of two sources – revenues from a Tribally-owned bingo hall and revenues from a portion of operating profits from a non-Tribally owned casino. Bingo revenues will be available as soon as the new bingo hall begins operation. Thus, the benefit to committing a portion of bingo revenues (say, 5-10 percent of net revenues) is that these funds will be available shortly and then can be allocated.

Revenues from a casino operation, if in fact the deal goes through, will be a tremendous source of funds to the Tribe. The benefit to using a portion of gaming revenues for land

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<sup>15</sup> One of the Tribal attorney reports that the Tribal Council has voted to change this taxation system. The new system is likely to tax Tribal businesses according to a 40-60 split, where the Tribe receives 40 percent of net operating revenues. The anticipated revenues from and impact of this new tax policy has not been assessed.

<sup>16</sup> Leslie Brown. "Puyallups Question Tribal Constitution." Tacoma News Tribune. October 25, 1990.

acquisition are threefold:

1. they would be a significant sum of money;
2. they would generate a consistent, annual source of income; and
3. unlike Settlement funds which are tightly earmarked, there are no external restrictions on the use of gaming revenue funds.

The risk, however, is that gaming revenues may not actually become available. Thus, this source of funds is very much dependent on how negotiations between the Tribe, gaming corporation(s), and the State of Washington proceed in the next couple years.

### **General Tribal Revenues**

Finally, general Tribal revenues have the benefit of providing a significant source of acquisition funds that are available immediately. Furthermore, an argument can be made that general Tribal revenues should be used for activities and acquisitions that support all members of the Tribe. Tribally-owned land is certainly one use of general revenues that benefits all members of the Tribe today, as well as in the future.

The following segment provides some anecdotal evidence which underscores the importance of being financially prepared to acquire land.

#### ***Land Acquisition in Action: Being Prepared to Move***

According to the Tribe's land use planner, on several occasions when non-Indians planned to sell land within the Reservation, they approached the Tribe first and offered to sell the property to the Tribe before going to a private realtor. However, because there was no pool of capital readily available and because no property acquisition system was in place, the Tribe simply was unable to take advantage of the offers. This example underscores the necessity for a land acquisition system and a pool of capital earmarked for land acquisition. In all, with a little planning and a readily available acquisition fund, the Tribe can benefit greatly.

### External Political Feasibility: Land Acquisition and Non-Indian Governments

It would be naive to pursue a land acquisition plan without at least minimally considering the likely consequences on political relationships outside, as well as inside, the Tribe. In terms of the likely impacts on relationships with those outside the Tribe, it is important for the Tribe to recognize the consequences of land acquisition on non-Indian governments (ie., Pierce County, the Town of Fife, the cities of Puyallup, Milton, and Tacoma), as they pertain to the land claims settlement.

The 1988 Agreement stipulates that the Tribe or any local government must consult the other when considering a "substantial action" concerning land use and related matters. (Agreement 22) Among the factors that must be considered in the consultation process is the impact resulting from the removal of the land from state and local governments' tax rolls. (For the complete list of factors that must be discussed in the consultative process, please refer to Appendix E.) This is obviously a serious and legitimate concern of non-Indian governments about which the Tribe needs to be aware. The Tribe may also wish to be strategic about which issues it is worth fighting hard, and which ones are somewhat less important in the long run.

Finally, the Tribe may wish to consider the benefit of developing strategic alliances and relationships with non-Indian communities. A recent example is a visit to the Tribe by the Mayor of the Town of Milton. The Mayor sought Tribal support for designating a 2.6 mile walking path as permanent green space. Permanent designation of land to green space may help to achieve the Tribe's objective of land preservation and environmental protection at no cost to the Tribe.

### Internal Political Feasibility

Within the Tribe, there is a general sense that regaining control and ownership over the land within the Reservation is a good idea. However, different Tribal leaders have divergent

valuations of land acquisition relative to other uses of Tribal funds. This section discusses some of the internal differences in opinion and illustrates how land acquisition can actually complement other Tribal priorities, such as per capita cash payments to Tribal members.

Because Council members must be re-elected once every two years, they may have an incentive to support and pursue policies that yield immediate and relatively short-term benefits. (This is by no means a criticism of individual Council members, it is simply an inherent part of any electoral system in which the representatives serve for relatively short terms.) However, by its very nature, land acquisition is a long-term strategy for meeting the Tribe's goals. To be successful, therefore, there must be some sort of mechanism in place to ensure that funds are available for land acquisition on an annual basis.

One mechanism may be for the Tribal Council to establish a land acquisition fund, using a variety of the funding sources discussed. In particular, the Council could allocated a portion of general and gaming revenues on an annual basis to ensure that land acquisition is sufficiently capitalized. The funds could be administered by a non-Council entity, so long as the rules for acquisition are clear and the funding and acquisition process is acceptable to Council members.

### Summary of Feasibility

The purpose of this part of the report was to determine whether the minimum requirements for land acquisition are met and to identify additional political considerations. In short, is land acquisition feasible:

- **Legally?** Yes, it is legally feasible to acquire land; it must be noted, however, that in practice the trust application process is certainly not automatic.
- **Financially?** Yes, but it will depend upon the availability and magnitude of revenues and the Tribe's willingness to commit a portion of revenues.

In addition to these minimum requirements, acquisition must also be possible given the political

environment. External political feasibility will depend, at least partially, upon the Tribe's continuing relationship with non-Indian governments and the larger non-Indian community, as required by the consultation process of the land claims settlement. Internally, mechanisms may need to be devised that will enable the Tribal Council to support long-term benefit programs, such as land acquisition, in addition to shorter-term benefits, such as per capita payment programs.

## Part 6

### The Planning Matrix and Implementation In Practice: Neighborhoods in Need

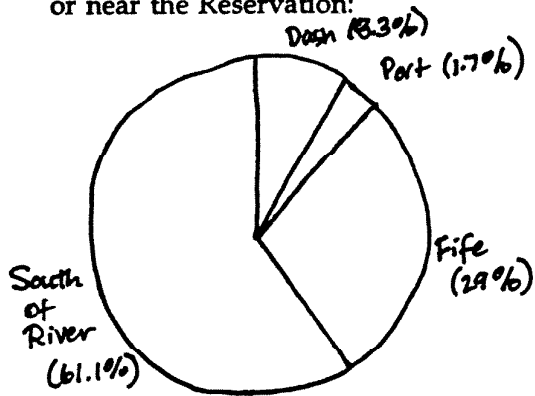
This section illustrates, through an example, how the planning matrix can be used to ensure that land acquisition both serves a specific Tribal goals and attends to the defining characteristics of the region. This example also highlights some implementation issues that are unique to this example, as well as others that are more germane to any acquisition plan. Sections called *Land Acquisition in Action* are interspersed throughout the text which illustrate innovative ways about how land acquisition might work in practice.

#### Neighborhoods in Need: Serving Tribal Goals and Community Need

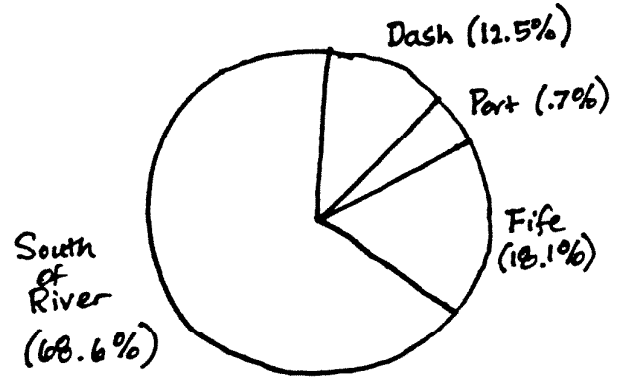
If one of the Tribe's goals were, for example, to improve housing and neighborhood conditions for many of its members, it could examine both the study area profiles and the planning matrix to determine strategic areas in which to acquire land. In the case of housing, several indicators suggest that the South of the River quadrant is a strategic area in which to acquire land.

First, the tremendous variation in home values and rental prices, when coupled with the residency patterns of both Puyallup and non-Puyallup Indians on the Reservation, demonstrates that there is tremendous potential and need for Tribal intervention in terms of housing and neighborhood improvement in the South of the River planning area. Of all Puyallups and other Indians residing on or near the Reservation, the greatest proportion live in the South of the River region, as illustrated by the following graphs:

Distribution of Puyallup Indians living on or near the Reservation:

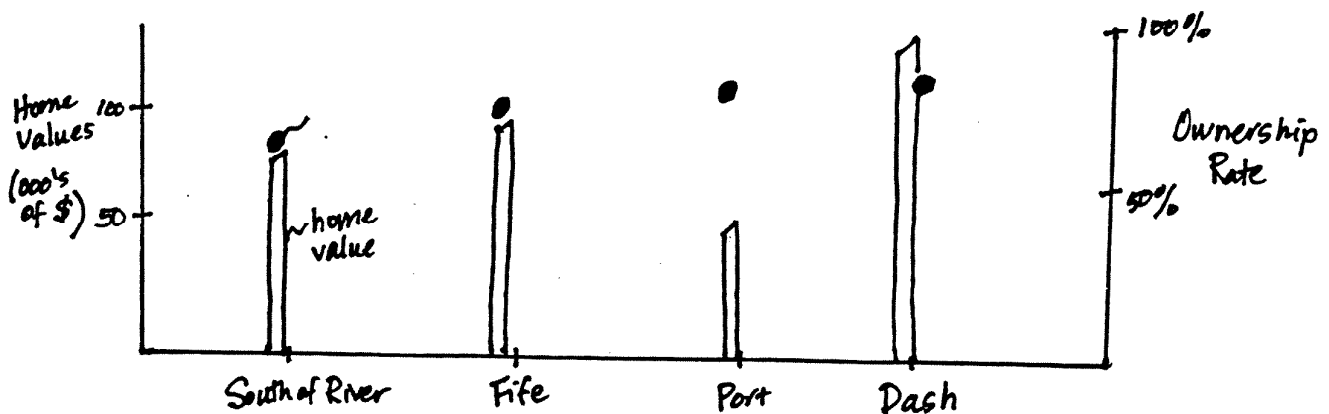


Distribution of All American Indians living on or near the Reservation



Source: U.S. Census Data, 1990, and Tribal Membership Rolls, December 1991.<sup>17</sup>

The South of the River region also has the among the lowest home values, rental rates, and home ownership rates. The following graph compares home values and home ownership rates for the four planning areas:



<sup>17</sup> The data used for these graphs aggregate all five census tracts in the South of the River region. However, if one disaggregates the five census tracts, one sees that Tract #621, just south of the Headquarters, contains the highest percentage of all American Indians living in Pierce County. Appendix B is a comprehensive break-down of the Reservation by census tract.

Source: 1990 Census STF 1A, Volume 3, Pierce County. Puget Sound Council of Governments, May 1991.

Disaggregating the data reveals an even more critical situation in the neighborhoods nearest the Headquarters. In one census tract near the Headquarters, a startling 99.6 percent of the residents rent. On the other hand, this may not be surprising given the low incomes and high unemployment of many of the area's residents.<sup>18</sup>

Recent events and a new influx of capital to the Tribe may present an opportunity to change the living conditions of the Tribal members. Individually, the \$20,000 one-time per capita payments awarded to Tribal members as part of the Settlement may provide potential home owners with sufficient funds for a down payment on a home. Collectively, the annual income stream from a potential Casino on the Reservation may enable the Tribe to create acquisition, capital, and mortgage funds for designated purposes such as Tribal housing. For the first time, home ownership within the Reservation may become a possibility for many members and the Tribe can facilitate this through a well-developed land acquisition plan.

In short, land acquisition in the South of the River region is a good idea because:

- the majority of Puyallup and non-Puyallup Indians living on the Reservation already live in the area, and many of those who do not have expressed a desire to move to the area;
- the greatest need for safe and adequate housing is South of the River;
- some Tribal members already could contribute savings and equity to construct a home, but need Tribal assistance in securing trust status and financing; and
- land South of the River is generally cheaper compared to the other regions.

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<sup>18</sup> Income data from the 1990 Census is not yet available. However, in 1989, the Puyallups were reported to have an unemployment rate of 63-66 percent. In addition, only 2 percent of Puyallups were reported to have incomes in excess of \$7,000, the lowest percentage of any of the sixty-seven tribes surveyed. (Cornell and Kalt Table 1)

Thus, if the Tribe hopes to serve its members, as well as the broader Indian community, through the provision of housing and neighborhood improvement, then focusing on the region South of the River is a very good place to begin.

The following segment offers a vision of how Tribal land acquisition for housing purposes might look.

#### *Land Acquisition in Action: Community Housing*

Recently, there has been interest in how the Tribe might go about providing housing for all members of the community, in addition to those with limited incomes. Several ideas have been suggested. One is for the Tribe to purchase parcels of land, or even parcels with existing houses on them, in a designated neighborhood, put them in Trust, rehabilitate the houses, then lease or sell them to Tribal members. Another idea is to lease some of the rehabilitated houses to non-Tribal members, and to use the income generated to subsidize housing for Tribal members.

One of the barriers to home ownership on Tribal land is the difficulty of attaining a conventional mortgage from a lender. Traditional lenders generally will not lend to activities on trust property because the land cannot be encumbered in the case of default. However, the Tribe may be able overcome this barrier by establishing a mortgage fund for those members who qualify.

In all, the Tribe can take the lead in revitalizing certain neighborhoods, making home ownership on Tribal lands possible, and creating a greater sense of community among Tribal members of all incomes.

The segment above highlights several possibilities for how land acquisition can help to create community housing. The segment also hints at several elements that must be considered when implementing a land acquisition plan for housing and community development.

#### Neighborhoods in Need: Implementation

The case of the neighborhoods nearest the Headquarters illustrates that land acquisition must be integrated with other Tribal services. For example, acquiring land for the purpose of

providing safe, comfortable, and affordable housing for Tribal members may be wasted if the Tribe does integrate acquisition with the provision of other services. Specifically, police service in one neighborhood near the Headquarters would be necessary to combat the crime and crack trade that is currently active in the area. In practice, integrating acquisition with other requirements implies that the Tribe's Land Use Division, Housing Authority, Trust Services, and Law Enforcement will need to develop mechanisms to integrate the acquisition strategy with proposed land uses.<sup>19</sup>

Second, acquiring land for the purpose of revitalizing a neighborhood can be a difficult and complicated task. One way to make such acquisition more manageable may be to phase acquisition. For example, the Tribe may wish first to purchase a "critical mass" of homes in the neighborhood, or perhaps on a single street, and rehabilitate these before purchasing additional homes. In later phases, the Tribe might acquire land in the same neighborhood for commercial purposes to provide job opportunities for Tribal members.

Third, stabilizing a neighborhood and improving the lives of those who reside there can be difficult and time consuming. So far, this report has emphasized those actions that the Tribe itself can take. However, another alternative may be for the Tribe to join forces with other organizations and residents concerned about the welfare of the neighborhood. For example, the Tribe might collaborate with the non-Puyallup Indians living on the Reservation, a local community development corporation, or local relief agencies and churches that serve the many Laotian refugees living near the Headquarters. Indeed, many individuals and organizations may have similar goals and a variety of resources available to them to implement solutions.

In closing, this example of acquiring land in the South of the River quadrant for the

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<sup>19</sup> For an understanding of the organizational structure of the Tribe, please refer to Appendix F.

purpose of establishing community housing illustrated three main points. First, it showed how planning might be used to achieve a certain goal in a specific area of the Reservation. Second, it offered visions of what land acquisition for community housing might look like in action. Finally, the example showed that a given land acquisition strategy will have specific implementation requirements.

## Part 7

### Recommendations

Thus far, this report has provided a model and process for considering specific land acquisitions, examined questions of implementation and feasibility, and demonstrated, through an example, how the Tribe might think about land acquisition in practice. The question now is, "How might the Tribe proceed with a land acquisition plan so it can achieve its stated goal of buying back its land base?"

#### Let Acquisition Decisions Be Guided by Goals and Relevant Information

The adoption of a systematic method for targeting and evaluating possible land acquisitions is one way for the Tribe to ensure that Tribal goals are served by acquisition. Without such a method, ad-hoc decisions, which lack Tribally-agreed upon guiding principles, are likely to be made. Ultimately, this may draw from better uses of Tribal funds and create a land base which does not serve Tribal needs or desires. The Planning Matrix developed in this report is one possible framework for evaluating potential land acquisitions.

#### Commit Financial Resources

The section on implementation demonstrated that there are at least five sources of funds that can (or must) be used for land acquisition. Some sources listed as part of the Land Claims Settlement are targeted for the purchase of specific types of land. Others, such as gaming and general Tribal revenues, are more discretionary. Ultimately, a successful land acquisition strategy will depend upon the Tribe's willingness to commit these financial resources. Furthermore, the scale of the acquisition plan will be directly proportional to the magnitude of funds committed.

The Tribe may wish to consider several financing mechanisms. One option that can be

initiated immediately is to transfer annually a certain percentage of gaming revenues and general Tribal revenues to a Land Acquisition Fund. Second, the Tribe may wish to consider innovative methods through which every Tribal member would receive some sort of direct benefit from land acquisition. For example, the Tribe could give assorted land benefits (such as mortgage loans, the provision of BIA-required land surveys, or even land grants) directly to Tribal members.

#### Establish A Land Acquisition Office

The Council should create a Land Acquisition Office to plan, coordinate, evaluate, conduct, and monitor land acquisitions for the entire Tribe. The Office needs to be structured such that it serves three primary purposes. First, the Office must serve and respond to the needs of the intended beneficiaries of the acquired land (ie., fisheries, home owners or renters, small business operators, recreational and cultural land users, etc.). Second, the Office must play a coordinating role between relevant Tribal divisions and offices, as exemplified in the "Neighborhoods in Need" example. Third, the Tribal Council must guide plans for acquisition by articulating Tribal goals and must invest the Acquisition Office with the authority necessary to carry out a land acquisition strategy.

#### Commit and Develop Land Use Professionals

Finally, any successful land acquisition plan will require a commitment of human resources. One might ask if the Puyallups' existing Land Use Division can handle land acquisition? On a technical level, the existing staff has some of the expertise necessary to develop and execute a land acquisition strategy. However, on a practical level, existing and growing responsibilities would prohibit the Land Use Division from administering a project as large as

land acquisition.

An example of the failure to plan for personnel requirements is seen in the Tribe's recent purchase of a Geographic Information System (GIS). The GIS is a sophisticated system that can integrate much valuable information about the Reservation. No funds, however, were provided for the hiring and training of a person to operate the GIS. Without such a person and training, the equipment is useless.

The appropriate number and level of training of employees will depend on both the type and scale of the land acquisition strategy the Tribe chooses. For example, the Salish and Kootenai of the Flathead Reservation, who have developed very aggressive and successful land acquisition policies, now have an extensive team comprised of a Resources Planning Coordinator, a Planner, GIS technician, planning technician, planning secretary, and outside consultants. A less aggressive acquisition strategy, in contrast, may require fewer employees. In either case, the number and level of training of the employees must correspond to the chosen land acquisition strategy.

## Part 8

### Closing Remarks

When allocating resources, there is often an inherent tension between the use of resources for the collective benefit versus individual benefit. Though this tension is not easily resolved, it is one that underlies much of the discussion of land acquisition. Some may argue that the Tribe should use its financial resources to acquire land for the collective use and benefit of the Tribe. Others may argue that the Tribe should instead distribute its cash resources among individuals in the Tribe. Although only the Tribe itself can determine which approaches are appropriate for it, a strong case can be made that land acquisition serves both individual Tribal members and the Tribe collectively.

In the process of conducting the research for this report, several themes came out that are worth mentioning. The first theme reflects the need for long term planning. This need has been articulated by Tribal members themselves, particularly those who attended the February 29, 1992, Community Meeting. Members expressed their desires to protect the integrity of Reservation lands, and to serve the interests of their children and succeeding generations of Puyallups. The need for planning has also been articulated formally in the Settlement and in land use plans completed for specific Tribal properties. One report ends with:

The Tribe needs to adopt and use a logical and responsible planning process to guide its land use decisions and environmental decisions. The Tribe cannot continue to make an ad-hoc selection of sites for each land use that comes along. (Land Use and Development Strategies 48)

Useful planning requires the leadership and foresight of the Tribal Council and other community leaders.

The second theme is that Tribal members, Council members, and Tribal employees all

appear to be deeply committed to the betterment of the Tribe. In addition, they are committed to a process in which consensus and accountability bind the Tribe together and ensure that actions taken by Tribal leaders do, in fact, represent the wishes of the community they represent and serve.

A passage from Frank Pommersheim's article on the "Reservation as Place" ties together the two themes that underlie much of this report – the need for planning and the concern of Tribal members about the Reservation and the Tribal community. The passage reads:

[Communities] need to develop what I will call an ethic of place. It respects equally the people of a region and the land, animals, vegetation, water, and air. An ethic of place recognizes both that western people revere their physical surroundings and that they need and deserve a stable, productive economy that is accessible to those of modest incomes. An ethic of place ought to be a shared community value and ought to manifest itself in a dogged determination of the society-at-large to treat the environment and its people as equals, to recognize both as sacred, and to insure that all members of the community not only search for, but insist upon, solutions that fulfill the ethic. (Wilkenson in Pommersheim 266)

The thoughtful development and execution of a land acquisition plan – a plan that links both Tribal goals and the defining characteristics of the Reservation – is one contribution to the creation of an "ethic of place."

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## APPENDICES



## APPENDIX A

*The following breaks down the funds that were awarded as part of the Land Claims Settlement Act of 1988.*

The Settlement conveyed \$162 million worth of resources, including:

- A \$22 million trust fund for housing, elder needs, day care, and a variety of other social services.
- \$24 million in direct payments to Tribal members.
- \$10 million for fisheries.
- \$10 million for economic development and land purchases.
- \$2.2 million for social services.
- 207 acres of land, in four parcels, adjacent to the Port of Tacoma.
- 57 acres of land owned by the Union Pacific Railway.
- 27 acres of land in the City of Fife.



## APPENDIX B

*Appendix B compiles sources and methods that were used in completing the four Study Area Profiles. Part 1 is data drawn from Tribal membership rolls and is followed by a zip code map that corresponds with the Tables 1b and 2b. Part 2 is data drawn from the U.S. Census and is followed by a census map.*

### Part 1

**Table 1b: Distribution of Adult Tribal Members within Washington State**

AREA	Adults*
On or Near Reservation	287
Greater Tacoma Area	131
Outside Tacoma	287
Total Washington	705

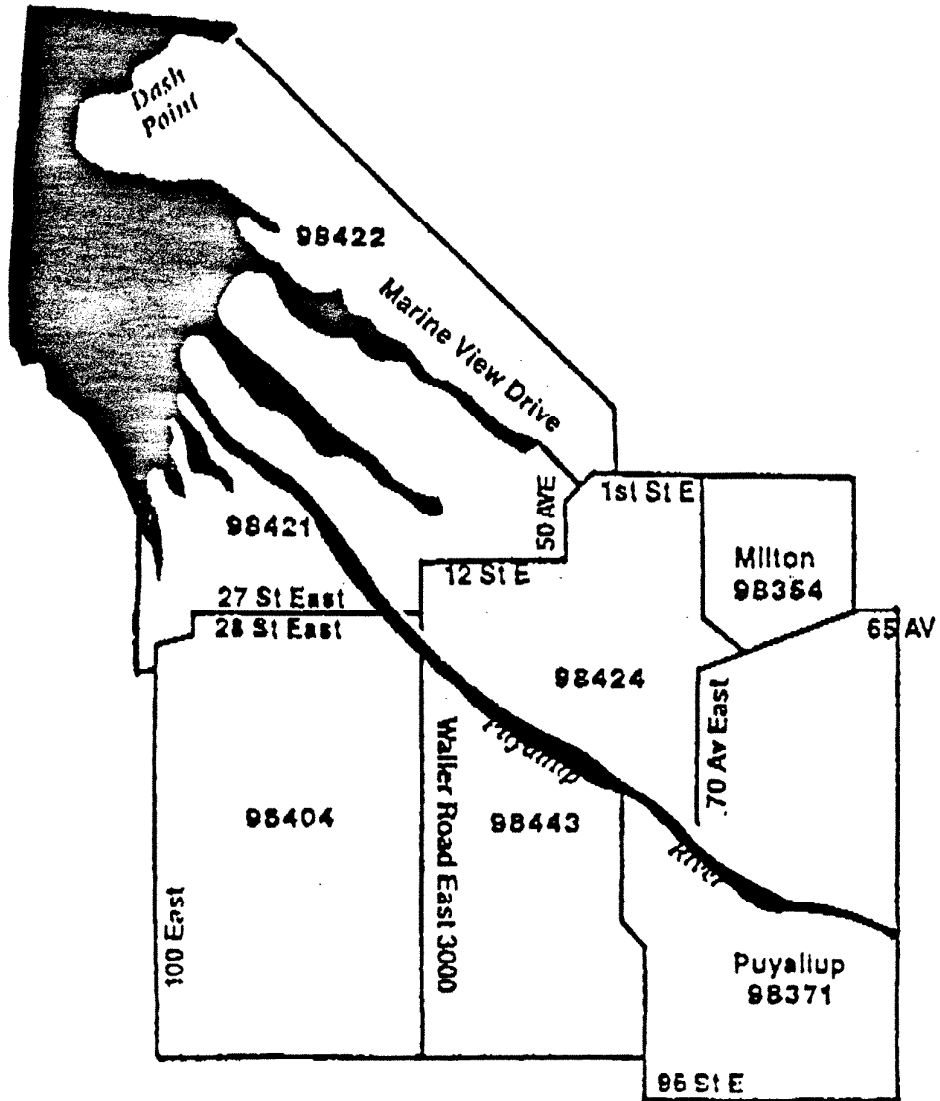
Source: Tribal Membership Rolls, December 1991.

**Table 2b: Number of adult Tribal members residing within or near Reservation Boundaries**

ZIP CODE	AREA OF RESERVATION	Adults *	Households
98354	Fife and Transportation Corridor	2	2
98371	South of River	30	17
98404	South of River	165	114
98421	Port Area	2	1
98422	Dash Point	36	25
98424	Fife and Transportation Corridor	50	28
98443	South of River	2	1
<b>TOTAL</b>		<b>287</b>	<b>188</b>

Source: Tribal membership rolls December 1991.

\* The numbers shown include only the adult members of the Tribe, as residency information for child and some adults members was unavailable.



**APPENDIX B**  
**Part 2**

*This section details the census data from which the analysis drew. Table 3b summarizes tenure statistics, home and rental prices, and residency patterns for each of the four Reservation planning areas. Table 3b simply extracts the "Total & Weighted Average" data from the more extensive Table 4b. Table 4b breaks down each of the four planning areas by census tract. The map on the succeeding page illustrate the locations of each of the census tracts within the Reservation.*

**Table 3b: Summary Comparisons of Reservation Census Tracts.**

AREA	Median House Value	Median Rent	Total Hsng Units	Own	Rent	Total Residents	Total Households
Dash Point	130,484	556	3,970	78.8%	21.1%	10,370	3,749
Port	55,000	350	142	76.1%	23.9%	274	134
Fife	90,962	416	7174	56%	44%	15,805	6,619
South of River	83,367	338	9,758	63.6%	58.4%	25,976	9,437
<b>TOTALS Pierce County</b>	<b>82,500</b>	<b>374</b>	<b>228,842</b>	<b>60.3%</b>	<b>39.7%</b>	<b>586,203</b>	<b>214,652</b>

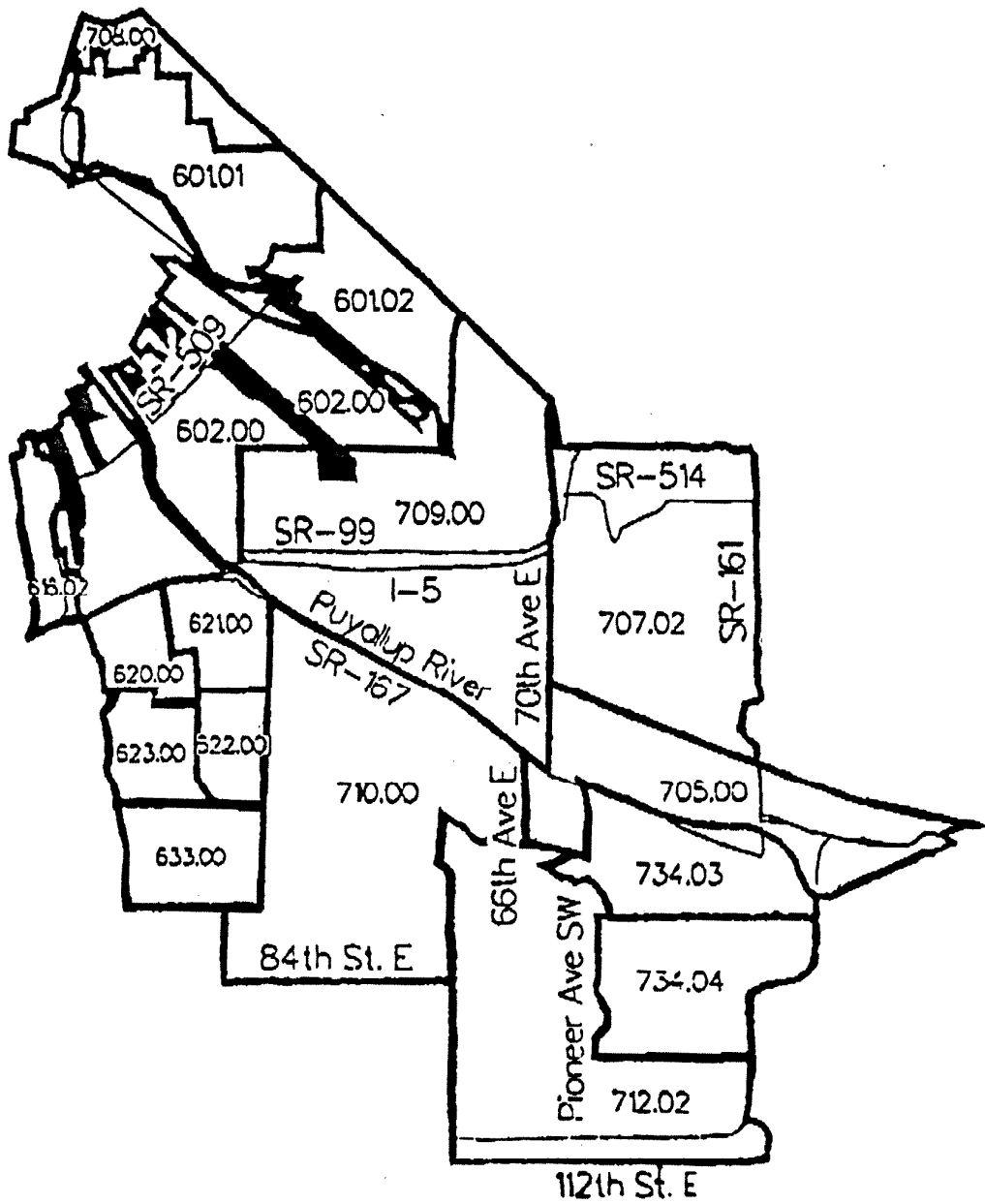
Source: 1990 Census STF 1A, Volume 3, Pierce County. Puget Sound Area of Governments.

**Table 4b: Comprehensive Comparisons of Reservation Census Tracts.**

AREA	Census Tract	Median House Value	Median Rent	Total Hsng Units	Own	Rent	Total Residents	Total Households
Dash	601.01	153,400	565	1,706	78.9%	21.1%	4,080	1,556
"	708.00	158,300	489	863	75.4%	24.6%	1,997	830
"	601.02	87,300	597	1,401	80.9%	19.1%	4,293	1,363
<b>Weighted AVG &amp; Totals</b>		<b>130,484</b>	<b>556</b>	<b>3,970</b>	<b>78.8%</b>	<b>21.1%</b>	<b>10,370</b>	<b>3,749</b>

Port	602.00	55,000	350	142	76.1%	23.9%	274	134
		55,000	350	142	76.1%	23.9%	274	
Fife	709.00	96,800	410	2,874	37.6%	62.4%	5,595	2,441
"	707.02	94,900	444	2,818	65.3%	34.7%	7,008	2,741
"	705.00	78,600	369	1,482	74.0%	26.0%	3,202	1,437
Weighted AVG & Totals		90,962	416	7174	56%	44%	15,805	6,619
Near Hdqrts.	621.00	47,400	350	1,014	57.5%	42.5%	2,947	962
"	622.00	71,300	160	859	0.4%	99.6%	3,010	828
Sub-total & weighted AVA		56,059	236	1873	31.3%	68.9%	5957	1790
South Hdqrts.	710.00	88,300	419	2,261	83.3%	16.7%	6,061	2,198
"	712.02	92,700	416	2,497	80.0%	20.0%	6,826	2,438
"	734.03	76,500	383	3,127	55.5%	44.5%	7,132	3,011
Sub-total & weighted AVA		86,219	396	7885	71.2%	28.8%	20019	7647
Aggregate South of River Data		83,367	338	9,758	63.6%	58.4%	25,976	9,437
TOTALS Pierce County		82,500	374	228,842	60.3%	39.7%	586,203	214,652

Source: 1990 Census STF 1A, Volume 3, Pierce County. Puget Sound Area of Governments.





APPENDIX C

The following describes the various Tribally-owned Port properties that were received by the Tribe as part of the Land Claims Settlement.

**LAND CLAIMS SETTLEMENT PROPERTIES**

<b>Blair Waterway Property</b>	The Tribe will receive 43.4 acres fronting on the Blair Waterway. The value of this property will increase substantially with completion of the Blair project.
<b>Blair Backup Property</b>	The Tribe will receive 85.2 acres located between Taylor Way and Alexander Avenue, together with the improvements on the property. This property will retain its current designation as a Foreign Trade Zone. The value of this parcel will increase substantially with completion of the Blair project.
<b>Inner Hylebos Property</b>	The Tribe will receive 72.9 acres of property on the Inner Hylebos, including a marina and a log storage site.
<b>Upper Hylebos Property</b>	The Tribe will receive 5.9 acres of property located at the head of the Hylebos Waterway.
<b>Union Pacific Property (Fife)</b>	The Tribe will receive 57 acres, subject to an easement for a roadway of approximately 4 acres. The Tribe will have an option to buy an additional 22 acres of land at its appraised fair market value.
<b>TaylorWay/East-West Road Properties</b>	The Tribe will receive two (2) pieces of property totalling 7.4 acres, one on Taylor Way, the other on East-West Road. These properties will retain their current designation as a Foreign Trade Zone.



## APPENDIX D

The following compares the pros and cons of different development options for the Tribally-owned Port Sites<sup>1</sup>

### DEVELOPMENT OPTIONS for THE PUYALLUP'S PORT SITE

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The Tribe has several promising development options available for use with regard to its port site. Only a few of these were explored by the student teams. Others need to be studied later. Listed below is a working list of options that are evaluated for their "pros" (+) and "cons" (-).

#### FISHING FACILITY

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>+ Jobs</li> <li>+ One of the Traditional Tribal activities</li> <li>+ Moderate capital investment</li> <li>+ Rising demand for fish and seafood</li> <li>+ Export of Native American (NA) products</li> </ul> | <ul style="list-style-type: none"> <li>- Existing high quality competition</li> <li>- Low pay and hard work</li> </ul> |
|--|--|

#### LOGGING / TIMBER / WOOD PRODUCTS FACILITY

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>+ Jobs (regional)</li> <li>+ Moderate capital investment</li> <li>+ Export of Native American products</li> <li>+ Replace existing uses elsewhere in Port</li> </ul> | <ul style="list-style-type: none"> <li>- Environmental concerns</li> <li>- Existing competition</li> </ul> |
|---|--|

#### AUTO UNLOADING AND OPEN STORAGE

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>+ High income from leasing land</li> <li>+ Modest capital investment</li> <li>+ Replace existing uses elsewhere in Port</li> <li>+ Jobs for Native Americans</li> </ul> | <ul style="list-style-type: none"> <li>- Union negotiations</li> <li>- Initial competition with the Port's own plans</li> </ul> |
|--|---|

#### INTERMODAL CONTAINER TERMINAL

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>+ High income for the Tribe</li> <li>+ Rapid growth of container traffic in Tacoma</li> <li>+ Jobs for Native Americans and others</li> </ul> | <ul style="list-style-type: none"> <li>- High capital investment</li> <li>- Competition with Port's new facilities</li> <li>- Union issues</li> </ul> |
|--|---|

#### BULK HANDLING TERMINAL

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>+ Moderate capital investment</li> <li>+ Growth projections for more jobs</li> <li>+ Export of NA resources and products</li> </ul> | <ul style="list-style-type: none"> <li>- Competition with Port's facilities</li> <li>- Union issues</li> </ul> |
|--|--|

#### LIGHT INDUSTRY AND ASSEMBLY

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>+ Labor intensive employment</li> <li>+ Free Trade Zone &amp; tribal sovereignty and</li> <li>+ Process and export NA products</li> <li>+ Low to moderate capital investment</li> </ul> | <ul style="list-style-type: none"> <li>- Lack of market studies demand</li> <li>- Uncertain legal &amp; trade factors of FTZ</li> <li>Indian Nation International Trade Zone.</li> </ul> |
|--|--|

#### GROUND LEASE TO PORT AUTHORITY for Short and/or Long-Term Uses

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>+ Guaranteed regular income for Tribe</li> <li>+ No capital and low risk</li> <li>+ May gain improved property at end of lease?</li> </ul> | <ul style="list-style-type: none"> <li>- No employment</li> <li>- Low involvement by the Tribe or members</li> </ul> |
|---|--|

#### AGRICULTURAL COMMODITIES

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>+ Regional employment</li> <li>+ Indian Nation market</li> <li>+ Low risk capital</li> </ul> | <ul style="list-style-type: none"> <li>- Fluctuation of the markets</li> </ul> |
|---|--|

#### NATURAL RESOURCES

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>+ Indian Nation trade (CERT)</li> <li>+ Responds to growing global market</li> <li>+ Provides economic diversification</li> </ul> | <ul style="list-style-type: none"> <li>- Environmental impacts local and elsewhere</li> <li>- International competition</li> </ul> |
|--|--|

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<sup>1</sup> From Arnal, Fenelon, Dierker and Lynch. "Puyallup's Port Development," In Summary Report: Land Use Development and Strategies. Graduate School of Design, Harvard University. Spring 1991, p. 37.



## APPENDIX E

*The following is an excerpt from the 1988 land claims Agreement between the Puyallup Tribe of Indians, local governments in Pierce County, the State of Washington, the United States of America, and certain private property owners. It is taken from Section VIII, part C, "Future Consultation Between the Tribal Government and Local Governments," pp. 22-23.*

In the consultation process, the parties shall discuss the following factors as applicable:

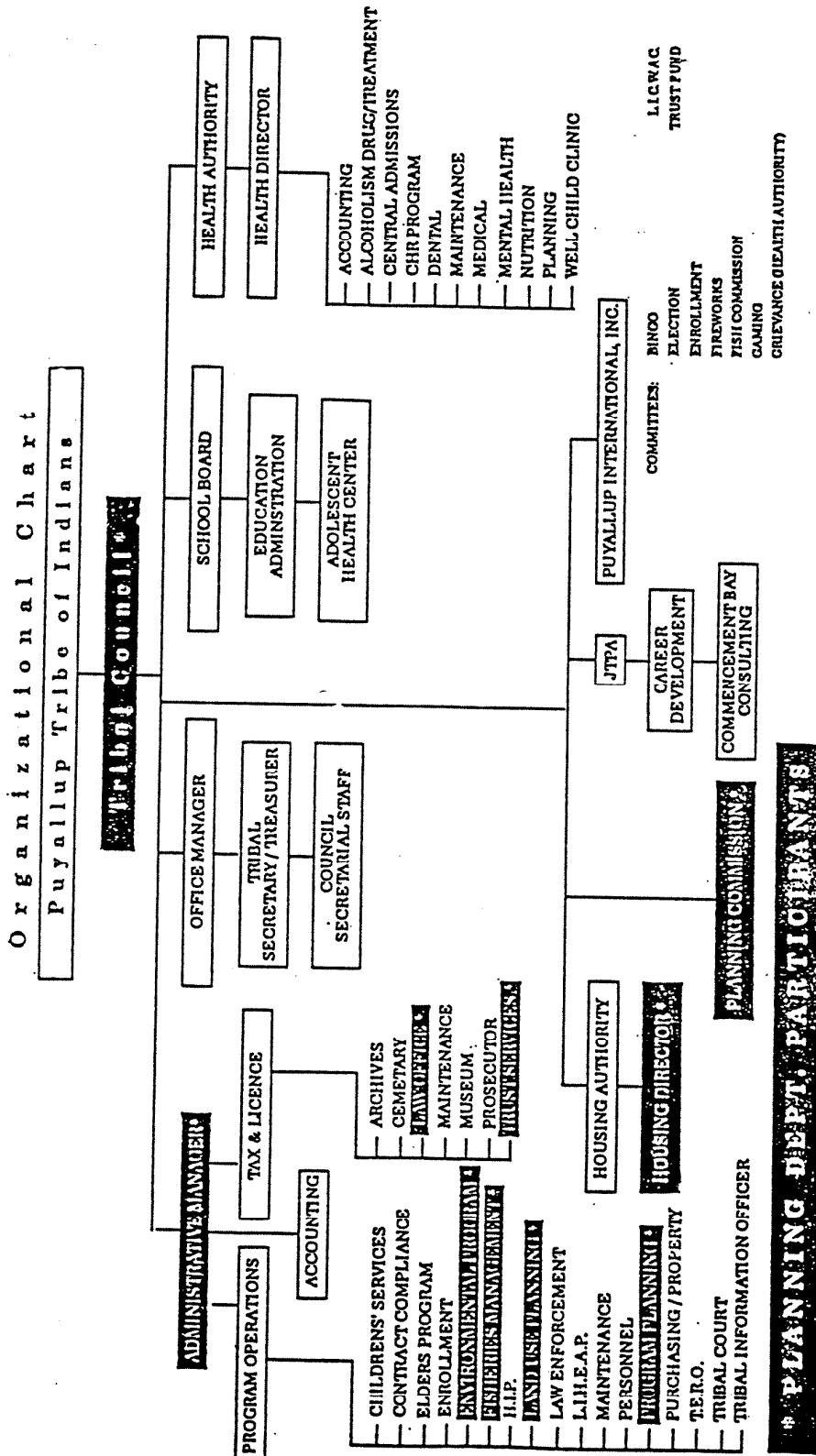
- a. The need of the Tribe and its members for increased land;
- b. The objectives of federal Indian policy;
- c. The protection of established or planned residential areas from uses or developments which would adversely affect those areas;
- d. Avoidance of adverse effects on other current and planned development and uses, on adjacent lands and within surrounding neighborhoods;
- e. Protection of the health, safety, and welfare of the community;
- f. Protection of open space;
- g. Protection of the physical environment from adverse impacts;
- h. Opportunity for economic growth and diversity;
- i. Provisions for providing public facilities;
- j. Concern that land may be put into trust for the primary purpose of allowing non-Indian businesses to avoid state and local taxation or where the Tribe receives no significant immediate benefits from the transaction; and
- k. The impact resulting from the removal of the land from state and local governments' tax rolls.

No predetermination of the applicable factors is contained in this Agreement, except that the non-Tribal parties agree to not raise objections to the trust applications for lands conveyed to the Tribe by this Agreement. When other land is proposed to be placed in trust, it shall be subject to the provisions of this section. Before the Tribe or a member of the Tribe files any trust land application in the future, or the Tribe authorizes a substantial change in use of land in trust, the Tribe will use the consultation process described in this Agreement.



APPENDIX F

The following chart illustrates the organizational structure of the Puyallup Tribe of Indians.





## APPENDIX G

*The following segment describes several low-cost alternative to purchasing land, which the Tribe may want to consider.*

### ***Land Acquisition in Action: Low-Cost Alternatives to Purchasing Land***

Several low-cost methods for acquiring additional land may be available to the Tribe.

First, the Tribe could launch a campaign to educate non-Indian land owners within the Reservation about how they may be able to donate land to the Tribe. Many members of the non-Indian community know about the Land Claims Settlement, but more education could be done to explain that the Tribe only owns approximately 900 of the Reservation's 18,000 acres. One option would be to solicit directly donations of land, whereby the donors could receive tax deductions, as well as satisfaction from their good will. In addition, Tribal attorneys could work to establish mechanisms whereby individuals could bequeath property to the Tribe.

Another option is for the Tribe to explore federal and state programs for surplus land disposal. A recent example of the types of land that may be available is the United Tribes' Day Break Star Tribal Cultural Center in Seattle. The property on which the center is located was federally surplused land from the closing of a military base.

Finally, the Tribe might cooperate with independent land trusts (of which there are over 26 in Washington State and several within a small radius of the Reservation) and the conservation efforts of local cities and towns to acquire and preserve land for designated purposes.

*Notice that the segment above has been called "low-cost" alternatives to acquisition, not "no-cost" alternatives. The reason for this is that any land acquisition will require a minimum level of personnel resources and those personnel costs must be acknowledged and accounted for. For example, for any property the Tribe seeks to acquire, the Tribe's Environmental Division must . In addition, Tribal attorneys must examine the legal status of the property, to ensure that the seller holds clear title, to determine whether there are liens on the property, and to learn about the history of the property. Finally, a staff member with real estate experience and financial expertise will need to analyze the viability of the proposed purchase and subsequent use.*