

AGENDA COVER MEMO

DATE: April 21, 2003
TO: Lane County Board of Commissioners
FROM: K. Robert Ezell, Lane County Surveyor *KR Ezell*
DEPARTMENT: Public Works, Land Management Division

AGENDA ITEM TITLE: **IN THE MATTER OF DEDICATING AND ACCEPTING RIGHT OF WAY DEEDS AS PUBLIC ROAD FOR THE BROWN'S LANDING ROAD, BEING LOCATED WITHIN SECTIONS 3, 4 AND 10, TOWNSHIP 16 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN (16-04-03, 4 & 10).**

- I. MOTION:** TO APPROVE THE ORDER DEDICATING AND ACCEPTING RIGHT OF WAY DEEDS AS PUBLIC ROAD FOR THE BROWN'S LANDING ROAD, BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT 'A' OF THE ORDER.
- II. ISSUE:** Right of way acquisition and improvements associated with the construction of the Brown's Landing Road have been completed. It is necessary to decide whether the completed road project and its alignment should be legally dedicated and accepted as public road.
- III. DISCUSSION:**

A. Background

The east-west portion of the Brown's Landing Road was originally constructed in its present location within a perpetual easement and right of way acquired in 1955 from the property owners at that time for the purpose of entry upon and across the described land for public access to the Willamette River for recreational purposes and to construct, reconstruct, maintain and patrol a vehicular roadway sufficient to accommodate such recreational use. In 1957, Lane County acquired another portion of land for the area, which is now a park known as Brown's Landing.

The portion of the road lying parallel with the Willamette River falls within the Corps of Engineers' Right of Way Easement for bank protection and channel improvement facilities along said river. This easement was acquired from the property owners in this area. Necessary land has been acquired for this road project from these landowners. A letter to Lane County from the Corps of Engineers' of November 30, 1972 indicated that the existing improvements for the park were compatible with potential Government requirements and that they did not anticipate any adverse effect on future Government construction and/or rehabilitation of the bank facility. Subject, however, to the condition that if future requirements of the Government necessitate removal, the improvements will be removed without cost or expense to the Government.

In 1997 the Board approved Order No. 97-5-14-2 accepting the Brown's Landing Task Force proposal for re-opening Brown's Landing and authorizing staff to pursue acquisition of legal road right-of-way to Brown's Landing. Further, by Resolution and Order No. 98-6-24-29, the Board resolved that under authority granted in ORS Chapter 35 and consistent with ORS Chapter 281, there existed a necessity to acquire and immediately occupy the real property in order to make the improvements to serve the needs of Lane County for the general use and benefit of Lane County.

Board Order 97-11-5-2 approved the Intergovernmental Agreement with the State of Oregon which indicated that Lane County would transfer fee title of the Willamette River Greenway site known as Brown's Landing to the Oregon Parks and Recreation Department once access problems had been resolved. The right of way was acquired and in September, 1999, the park was conveyed to the State of Oregon Parks and Recreation Department by Reel 2590R, Instrument No. 99079802, Lane County, Oregon Deed Records.

The Brown's Landing Road project including surveying, alignment design, mapping, right of way acquisition, and construction relative to this project has now been completed. The project was constructed in accordance with plans and specifications administered by the Lane County Department of Public Works.

B. Analysis

The Brown's Landing road has been completed and is open for public travel. The final phase of the project is to complete the dedication and acceptance as a public road. The Order herewith accomplishes that action, by dedicating and accepting right of way acquired as a part of this project. A centerline description of the new alignment, including right of way widths, is attached to the Order as Exhibit "A".

The road meets the criteria for acceptance as a public road, except that the right of way width of 40 feet does not meet the 60 foot standard right of way width as specified in Lane Code 15.030(1). Lane Code 15.030(2) provides an exception to the standard right of way width specified for a local road and street to no less than 40 feet if requirements of Lane Manual 15.222 are met to the satisfaction of the Board. A Right of Way Certification by the Director of Public Works and the Planning Director is prepared to accommodate this exception and is attached to the Order as Exhibit "C".

The Public Works Department has filed a road survey (County Survey File No. 37942), including road centerline and right of way monumentation in compliance with ORS Chapters 209.250 and ORS 368.106 for public record in the County Surveyor's Office.

C. Alternatives/Options

The Board of Commissioners has the options of:

1. Approving the Order Dedicating and Accepting Brown's Landing Road as a public road, or
2. Having staff review and alter any component of the Order Dedicating and Accepting said road, or
3. Continue the proposed motion for further consideration

D. Recommendations

It is recommended that the Board of County Commissioners approve Option 1. This will approve the Order Dedicating and Accepting Brown's Landing Road as a public road for the use and benefit of the public for access to Brown's Landing.

E. Timing

Timing is important, as ORS 368.106 requires that deeds or other documents establishing an interest in property acquired for public road purposes be recorded.

IV. IMPLEMENTATION/FOLLOW-UP:

The Order dedicating and accepting Brown's Landing Road will be forwarded to the County Clerk for filing and recording into the Lane County Board of Commissioners' Journal of Administration.

- V. ATTACHMENTS:** Final Order With Attachments:
Exhibit "A" - Legal Description
Exhibit "B" - Director's Report
Exhibit "C" - Right of Way Certification
Attachment 'A' - Vicinity Map

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LANE COUNTY, OREGON**

File No. 4095

**IN THE MATTER OF DEDICATING AND ACCEPTING
RIGHT OF WAY DEEDS AS A PUBLIC ROAD FOR THE
BROWN'S LANDING ROAD, BEING LOCATED WITHIN
SECTIONS 3, 4 AND 10, TOWNSHIP 16 SOUTH, RANGE 4
WEST OF THE WILLAMETTE MERIDIAN (16-04-03, 4 & 10).** **ORDER NO.**

THIS MATTER now coming before the Board of County Commissioners of Lane County and the Board deeming it to be in the best interest of Lane County and the public to dedicate to the public for road purposes and accept as Public Road, certain real properties which were conveyed to Lane County for Brown's Landing Road; and

WHEREAS, portions of the road lie within the Corps of Engineers' Easement for bank protection and channel improvement facilities along the Willamette River; and

WHEREAS, the Corps, by a letter of November 30, 1972, indicated that the existing improvements for the park were compatible with potential Government requirements and that they did not anticipate any adverse effect on future Government construction and /or rehabilitation of the bank facility; and

WHEREAS, through Board Order 97-5-14-2 and Board Order No. 98-6-24-29, the Public Works Department proceeded with the acquisition of the real property for Lane County for the purpose of improving access to Brown's Landing Park; and

WHEREAS, Board Order 97-11-5-2 approved the Intergovernmental Agreement with the State of Oregon which indicated that Lane County would transfer fee title of the Willamette River Greenway site known as Brown's Landing to the Oregon Parks and Recreation Department once access problems had been resolved; and

WHEREAS, the Department of Public Works has acquired all necessary right of way on and over which the project has been laid out and Lane County has conveyed the park area to the said State of Oregon Parks and Recreation Department by Reel 2590R, Instrument No. 99079802, Lane County, Oregon Deed Records; and

WHEREAS, ORS Chapter 368.106 requires that documents establishing an interest in property acquired for public road purposes be recorded, and that a survey of the right of way be filed; and

WHEREAS, the Department of Public Works has filed a survey (County Survey File No. 37942) of this road with the County Surveyor for public record all in compliance with ORS Chapters 209.250 and 368.106; and

WHEREAS, the road does not meet the right of way criteria for acceptance as a public road, however, Lane Code 15.030(3) and Lane Manual 15.222 provide for the acceptance of a right of way less than 60 feet by the Board of County Commissioners, provided the Director of the Department of Public Works and the Director of the Planning division certify that current and future roadway needs do not necessitate a 60 foot right of way; and

NOW, THEREFORE, IT IS HEREBY ORDERED, that the deeds or portions thereof, specified herein, presented to the said Board of County Commissioners through purchase, donation, or agreement, as herein set forth below, on the dates set after the names of the Grantors, and before the recording information in the Lane County Deed Records, are hereby dedicated to the public for public road purposes:

<u>GRANTORS</u>	<u>RECORDING DATE</u>	<u>LANE COUNTY DEED RECORDS</u>	<u>TAX LOT NUMBER</u>
Harper Family LTD.	July 10, 1998	Reel 2440R RR 9853921	16-04-03 1100
Dewayne E. McDonald Sandra McDonald	June 24, 1999	Reel 2563R RR 99056037	16-04-03 1200
James T. Funke	May 26, 1998	Reel 2422 RR 9839953	16-04-03 800
Dorrance A Mattson Norma J. Mattson	March 22, 2002	Deed Instrument 2002-022441	16-04-09 100
Bruce H. Fisher Darby F. Fisher	March 22, 2002	Deed Instrument 2002-022440	16-04-09 200
Katherine Wilson Philip Krysl	March 22, 2002	Deed Instrument 2002-022442	16-04-10 200

and, it is further

ORDERED, that the above Deeds be accepted as public road and not as county road, as said road is described in the legal description attached hereto, made a part hereof and marked Exhibit 'A' by this Order; and it is further

ORDERED, that the waiver of right of way standards is approved for acceptance of non-standard right of way, as provided for in Lane Code 15.030 and Lane Manual 15.222 and described in

the Right of Way Certification, attached hereto, marked Exhibit "C" and made a part hereof by this Order; and it is further

ORDERED, that the above Order shall be entered in the records of the Lane County Board of County Commissioners' Journal of Administration.

DATED this _____ day of _____, 2003.

DEPARTMENT OF PUBLIC WORKS
LAND MANAGEMENT DIVISION

BOARD OF COUNTY COMMISSIONERS
LANE COUNTY, OREGON

Approved May 6, 2003

By John S. Pelsch
For: Jeff Towery, Interim Division Manager

Peter Sorenson, Chair
Lane County Board of Commissioners

Attachments: Description - Exhibit "A"
 Director's Report - Exhibit "B"
 Right of Way Certification - Exhibit "C"
 Vicinity Map - Attachment "A"

APPROVED AS TO FORM

Date 4-6-03 lane county,

OFFICE OF LEGAL COUNSEL

EXHIBIT "A"**BROWNS LANDING ROAD****CENTERLINE DESCRIPTION**

A strip of land variable meters in width lying on each side of the centerline of Brown's Landing Road, in Sections 3, 4, and 10, Township 16 South, Range 4 West of the Willamette Meridian, Lane County, Oregon, as surveyed by Lane County in 1998; the centerline and widths in meters being described as follows:

Beginning at Engineers' Centerline Station L 0+000.000 POB (Brown's Landing Road) = 16+010.138 POC (River Road), said station being 93.778 meters North and 544.464 meters East of the Brass Cap marking the One-Quarter corner common to Sections 4 and 9, Township 16 South, Range 4 West of the Willamette Meridian, Lane County, Oregon; run thence South 89° 28' 14" East, 393.272 meters; thence along a 20.000 meter radius curve right (the long chord of which bears South 51° 35' 24" East, 24.561 meters) a distance of 26.445 meters; thence South 13° 42' 35" East, 48.962 meters; thence along a 285.000 meter radius curve left (the long chord of which bears South 31° 00' 10" East, 169.438 meters) a distance of 172.038 meters; thence South 48° 17' 45" East, 145.971 meters to Engineers' Centerline Station L 0+786.688 EOP and there ending, all in Lane County, Oregon.

The widths in meters of the strip of land herein described are as follows:

<u>STATION TO STATION</u>		<u>WIDTH ON NORTH'LY SIDE OF C/LINE</u>	<u>WIDTH ON SOUTH'LY SIDE OF C/LINE</u>
L 0+005.000 POT	L 0+758.632 POT	6.096 meters	
L 0+758.632 POT	L 0+762.537 POT	6.096 meters tapering on a straight line to 0.000 meters	
L 0+005.000 POT	L 0+381.111 POT		6.096 meters
L 0+381.111 POT	L 0+424.699 POT		6.096 meters tapering on a straight line to 6.096 meters
L 0+424.699 POT	L 0+753.413 POT		6.096 meters
L 0+753.413 POT	L 0+773.849 POT		6.096 meters tapering along an 18 meter radius curve left to 17.657 meters
L 0+773.849 POT	L 0+762.537 POT		17.657 meters tapering back on a straight line to 0.000 meters.

EXCEPTING THEREFROM, that portion lying within the right of way of County Road Number 200 (River Road).

The bearings used herein are based on a bearing of South 4° 40' 30" East between two found monuments along the easterly side of River Road set in County Survey File Number 15379.

File No. 4095

IN THE MATTER OF DEDICATING AND ACCEPTING)
RIGHT OF WAY DEEDS AS A PUBLIC ROAD FOR THE)
BROWN'S LANDING ROAD, BEING LOCATED WITHIN) DIRECTOR'S REPORT
SECTIONS 3, 4 AND 10, TOWNSHIP 16 SOUTH, RANGE 4)
WEST OF THE WILLAMETTE MERIDIAN (16-04-03, 4 & 10).)

The east-west portion of the Brown's Landing Road was originally constructed in its present location within a perpetual easement and right of way acquired in 1955 from the property owners at the time for the purpose of entry upon and across the described land for public access to the Willamette River for recreational purposes and to construct reconstruct, maintain and patrol a vehicular roadway sufficient to accommodate such recreational use. In 1957, Lane County acquired another portion of land for the area, which is now a park known as Brown's Landing.

The portion of the road lying parallel with the Willamette River, falls within the Corps of Engineers' Right of Way Easement for bank protection and channel improvement facilities along the river. This easement was acquired from the property owners in this area. The County has acquired necessary portions of this land for this road project from these landowners. A letter to Lane County from the Corps of Engineers' of November 30, 1972 indicated that the existing improvements for the park were compatible with potential Government requirements and that they did not anticipate any adverse effect on future Government construction and/or rehabilitation of the bank facility. Subject, however, to the condition that if future requirements of the Government necessitate removal, the improvement will be removed without cost or expense to the Government.

In 1997, the Board approved Order No. 97-5-14-2 accepting the Brown's Landing Task Force proposal for re-opening Brown's Landing and authorizing staff to pursue acquisition of legal road right of way to Brown's Landing. Further, by Resolution and Order No. 98-6-24-29, the Board resolved that under authority granted in ORS Chapter 35 and consistent with ORS Chapter 281, there existed a necessity to acquire and immediately occupy the real property in order to make the improvements to serve the needs of Lane County for the general use and benefit of Lane County.

Board Order 97-11-5-2 approved the Intergovernmental Agreement with the State of Oregon which indicated that Lane County would transfer fee title of the Willamette River Greenway site known as Brown's Landing to the Oregon Parks and Recreation Department once access problems had been resolved. The right of way was acquired and in September, 1999 the park area was conveyed to the State.

The Brown's Landing Road project construction plans were prepared, and all necessary surveying, alignment design and mapping, additional right of way acquisition, and construction has been completed. All construction of this road was completed in accordance with plans and specifications administered by the Department of Public Works.

An Order to dedicate and accept this road as a public road has been prepared. The Order provides for the dedication and acceptance of portions of right of way deeds acquired in conjunction with this project, which would be of benefit to the public. The legal description of the alignment including right of way widths is marked Exhibit "A" and attached to the Final Order.

The Department of Public Works has filed a road survey (County Survey File No. 37942) which includes centerline and right of way monumentation, with the County Surveyor for public record all in compliance with ORS Chapters 209.250 and 368.106. The Final Order will be filed with the County Clerk's Office and recorded in the Commissioners' Journal of Administration.

DATED this 23rd day of April, 2003



Oliver P. Snowden, Director
Department of Public Works

EXHIBIT "C"

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

File No. 4095

IN THE MATTER OF DEDICATING AND ACCEPTING)
 RIGHT OF WAY DEEDS AS A PUBLIC ROAD FOR THE)
 BROWN'S LANDING ROAD, BEING LOCATED WITHIN) RIGHT OF WAY
 SECTIONS 3, 4 AND 10, TOWNSHIP 16 SOUTH, RANGE 4) CERTIFICATION
 WEST, OF THE WILLAMETTE MERIDIAN (16-04-03, 4 & 10).)

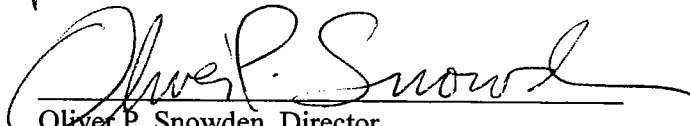
Brown's Landing Road provides access to the Willamette River and to Brown's Landing Park. Approval of Board Order No. 97-5-14-2 initiated improvement of the road and Board Order No. 98-6-24-29 approved acquisition of additional right of way from adjacent property owners. This road has been improved and will be of benefit to the general public. The road meets the criteria for acceptance as a public road, except that the right of way width of 40 feet does not meet the 60 foot standard right of way width as specified in the Lane Code 15.030(1). Lane Code 15.030(2) provides an exception to the standard right of way width specified for a local road and street to no less than 40 feet if requirements of Lane Manual 15.222 are met to the satisfaction of the Board.

Lane Manual 15.222 makes provisions for the acceptance of roads having a width less than 60 feet provided that all other road standards are met and also provided that certification regarding future needs and safety considerations are made by the Director of the Department of Public Works and the Director of the Planning Division. Certification statements meeting the specified criteria are as follows:

I, Oliver P. Snowden, Director of the Lane County Department of Public Works, hereby certify that current and future roadway needs do not necessitate a 60 foot right of way and no safety hazard will be created if this portion of Brown's Landing Road is accepted having a minimum right of way width of 40 feet.

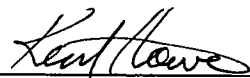
It is recommended that Brown's Landing Road, as described in the attached Order be dedicated and accepted as a public road.

DATED this 23rd day of April, 2003.


 Oliver P. Snowden, Director
 Department of Public Works

I, Kent Howe, Lane County Planning Director, support the establishment of this portion of Brown's Landing Road as a public road having a minimum right of way width of 40 feet. I hereby certify that current and future planning needs do not necessitate a 60-foot right of way.

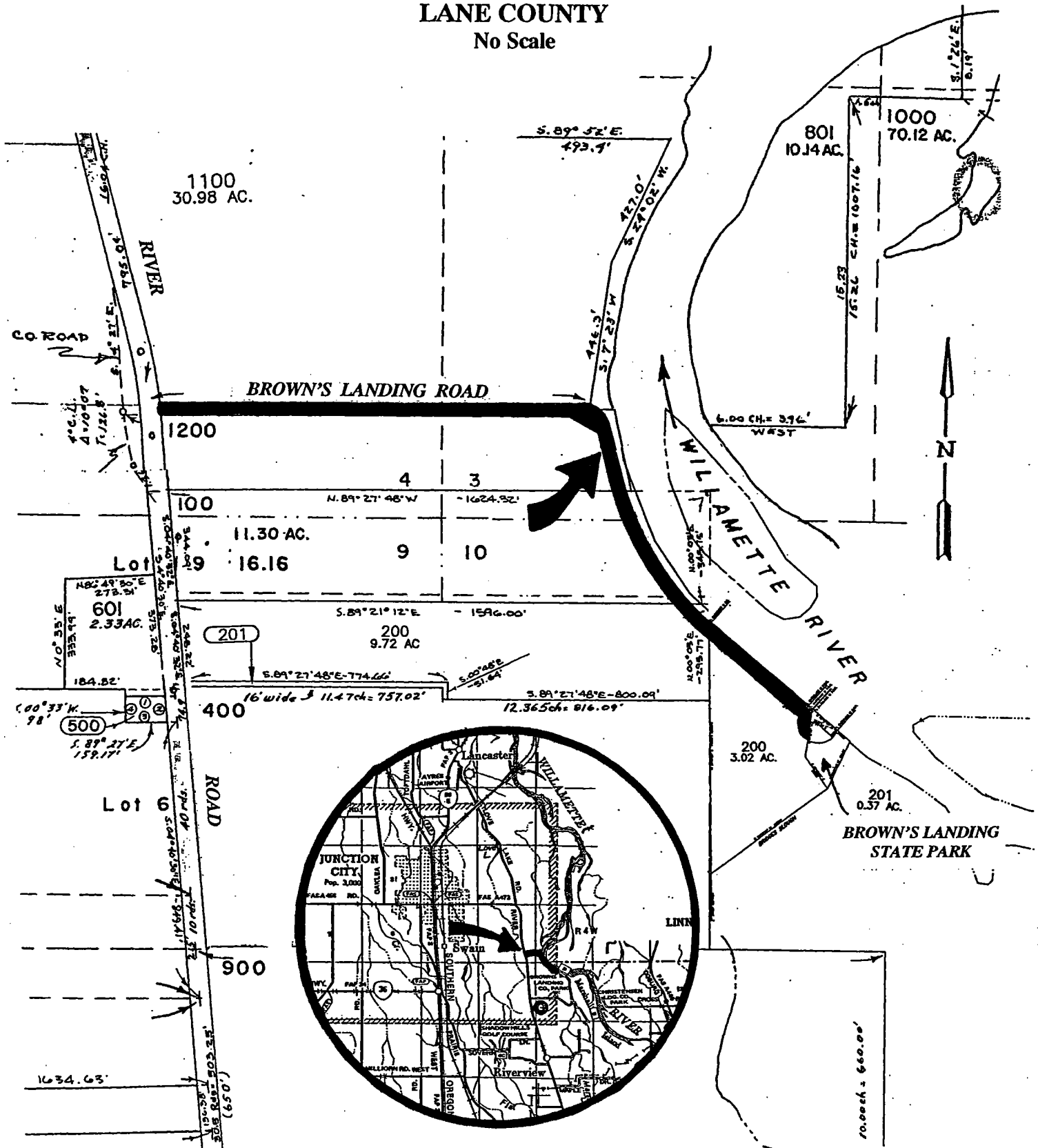
DATED this 21 day of April, 2003


 Kent Howe
 Planning Director, Lane County

ATTACHMENT "A"

SECTIONS 3, 4, 9 & 10, T 16 S, R 4 W, W. M.
LANE COUNTY

No Scale



VICINITY MAP

