

# EXHIBIT 5



**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

☎ 218-730-5580

✉ [planning@duluthmn.gov](mailto:planning@duluthmn.gov)

<b>File Number</b>	PL 19-175	<b>Contact</b>	Chris Lee, <a href="mailto:clee@duluthmn.gov">clee@duluthmn.gov</a>	
<b>Type</b>	Vacation of Right-Of-Way	<b>Planning Commission Date</b>	April 14, 2020	
<b>Deadline for Action</b>	<b>Application Date</b>	March 24, 2020	<b>60 Days</b>	May 23, 2020
	<b>Date Extension Letter Mailed</b>	March 24, 2020	<b>120 Days</b>	July 22, 2020
<b>Location of Subject</b>	Portion of Winnipeg and Water Street near 12901 Water Street			
<b>Applicant</b>	Brian & Ann Smith	<b>Contact</b>		
<b>Agent</b>	Chris Dahlberg	<b>Contact</b>	Chris Dahlberg Law Office	
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	February 29, 2020	<b>Sign Notice Date</b>	March 31, 2020	
<b>Neighbor Letter Date</b>	February 25, 2020	<b>Number of Letters Sent</b>	6	

**Proposal**

The applicant is requesting to vacate a portion of Winnipeg Street and Water Street adjacent to 12901 Water Street.

Staff is recommending approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Rural Residential
<b>North</b>	R-1	Residential	Rural Residential
<b>South</b>	R-1	Residential	Rural Residential
<b>East</b>	R-1	Undeveloped	Rural Residential
<b>West</b>	N/A	St. Louis River	N/A

**Summary of Code Requirements:**

Vacation of public rights of way and/or easements require a Planning Commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the council.

UCD Sec. 50-37.6.C – The Planning Commission shall review the proposed vacation, and Council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway, or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles, or pedestrians or the efficient supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.

**Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):**

**Governing Principle #5** - Promote reinvestment in neighborhoods.

- Vacating right of way near this property is helping to correct a non-conforming structure and the subsequent easements protect the underlying utilities.

**Future Land Use** - Rural Residential - Areas of single-family lots of at least five acres. Limits the extension of municipal utilities for new development. Includes existing rural density areas with lots as small as an acre now served by municipal utilities but not planned for further subdivision.

**Review and Discussion Items:**

Staff finds that:

1. The applicant is requesting to vacate a portion of Winnipeg Street and Water Street near the address of 12901 Water Street as shown of the attached exhibit.
2. The proposed vacation of a portion of Winnipeg and Water Street is T-shaped and is approximately 10,700 square feet in size. The proposed area currently contains a 1,308 square foot home built in 1950 and a garage built in 2011. The two sheds are under the required size for building permits and it is unknown when they were built.
3. The City has determined that this portion of the right of way is not needed for street or pedestrian use. Vacating the right of way will not impact or deny access to other property owners. This road abuts the water line, but is not used for access to the St. Louis River and there is no public water access at this location due to the terrain of this area. City engineering has requested easements be placed on the neighboring properties in order to maintain access to the utilities that run parallel to Water Street. The easement agreements will need to be signed by the property owners before this application can go forward to City Council.
4. No other public or City comments have been received at the time of drafting this report.
5. Vacations of rights of way and easements lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

**Staff Recommendation:**

Based on the above findings, Staff recommends that Planning Commission recommend approval of the vacation with the following conditions:

- 1.) Record the vacation shown on the attached exhibit dated March 19, 2020.
- 2.) The applicant and adjacent property owners sign the easement agreements for utilities prior to recording.
- 3.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



19-175: Street Vacation  
12901 Water Street

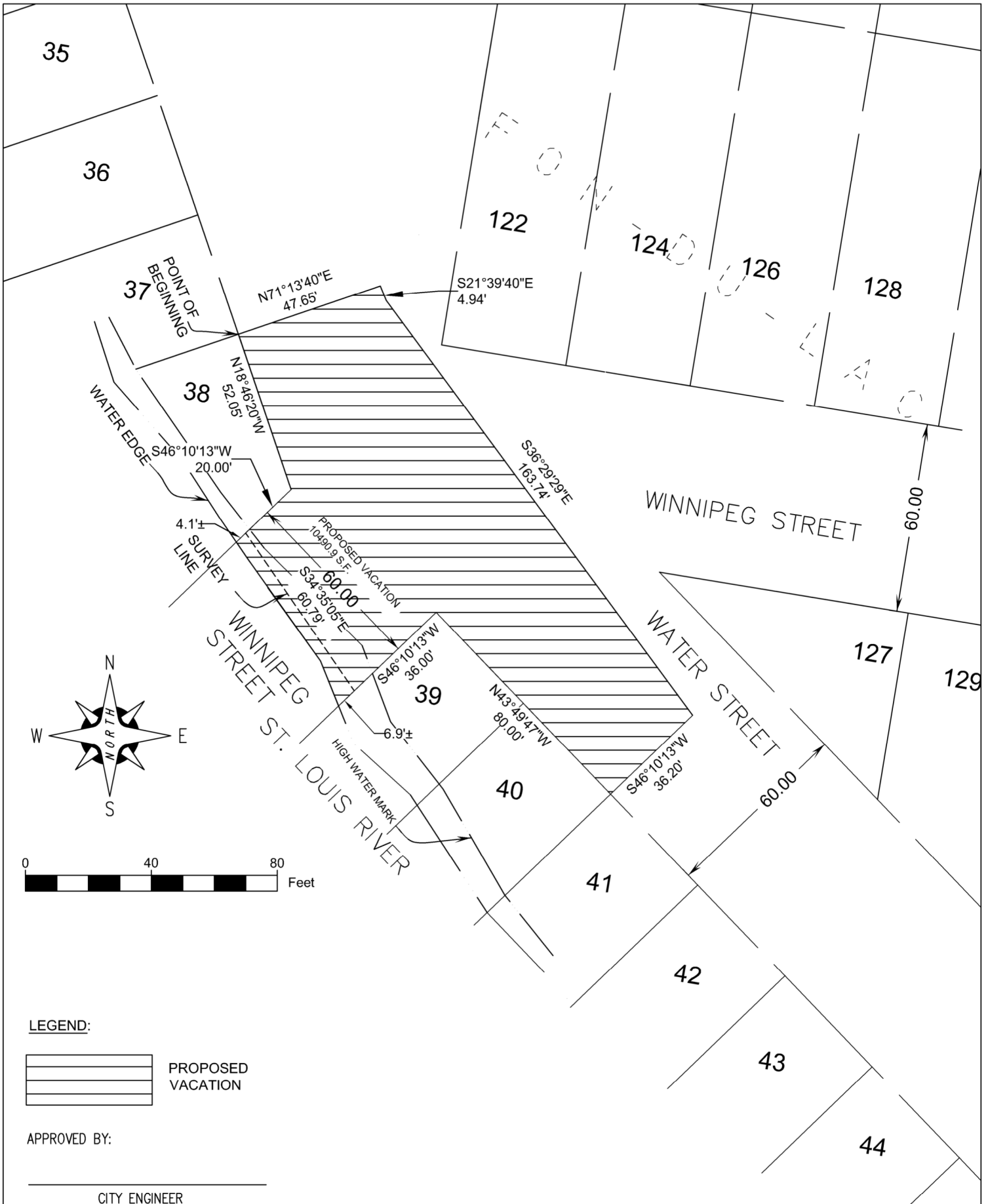
**Legend**

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
  - CITY OF DULUTH
  - WLSDD; PRIVATE
  - Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
- Road or Alley ROW
- Easement Type**
  - Utility Easement
  - Other Easement
  - Zoning Boundaries

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.



Aerial photography flown 2019



I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Date : 3/19/2020

*Greg Stoewer*

Greg Stoewer  
MINNESOTA LICENSE NO. 21774



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Job Number: 15513.383

VACATION OF WINNIPEG STREET & WATER STREET  
PAGE 1 OF 2

Winnipeg Street and Water Street vacation

A vacation of the following portions of Winnipeg Street and Water Street, Fond Du Lac, St. Louis County, Minnesota, according to the recorded plat thereof:

Beginning at the northeast corner of Lot 38 Water Street, of said Fond Du Lac, on the westerly line of said Water Street; thence along the easterly extension of the north line of said Lot 38 North 71 degrees 13 minutes 40 seconds East 47.65 feet; thence South 21 degrees 39 minutes 40 seconds East 4.94 feet; thence South 36 degrees 29 minutes 29 seconds East 163.74 feet to the northeasterly extension of the southeast line of Lot 40 Water Street, of said Fond Du Lac; thence South 46 degrees 10 minutes 13 seconds West along said northeasterly extension of the southeast line of said Lot 40 a distance of 36.20 feet to the southwesterly line of said Water Street and the east corner of said Lot 40; thence North 43 degrees 49 minutes 47 seconds West along the southwest line of said Water Street 80.00 feet to the north corner of Lot 39 Water Street, of said Fond Du Lac; thence South 46 degrees 10 minutes 13 seconds West along the southeast line of said Winnipeg Street 36.00 feet to a survey line; thence North 34 degrees 35 minutes 05 seconds West along said survey line 60.79 feet to the northwest line of said Winnipeg Street; thence North 46 degrees 10 minutes 13 seconds East along said northwest line of Winnipeg Street 20.00 feet to the intersection of the northwest line of Winnipeg Street and the southwest line of said Water Street; thence north along the west line of said Water Street North 18 degrees 46 minutes 20 seconds West 52.05 feet to the Point of Beginning.

The southwesterly limit of said vacated Winnipeg Street is the northeast water edge of the St. Louis River, bounded by the southwesterly prolongation of the northwest line and the southeast line of said Winnipeg Street.

Basis of Bearing is the St. Louis County Transverse Mercator 1996 Coordinate System.

APPROVED BY:

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CITY ENGINEER

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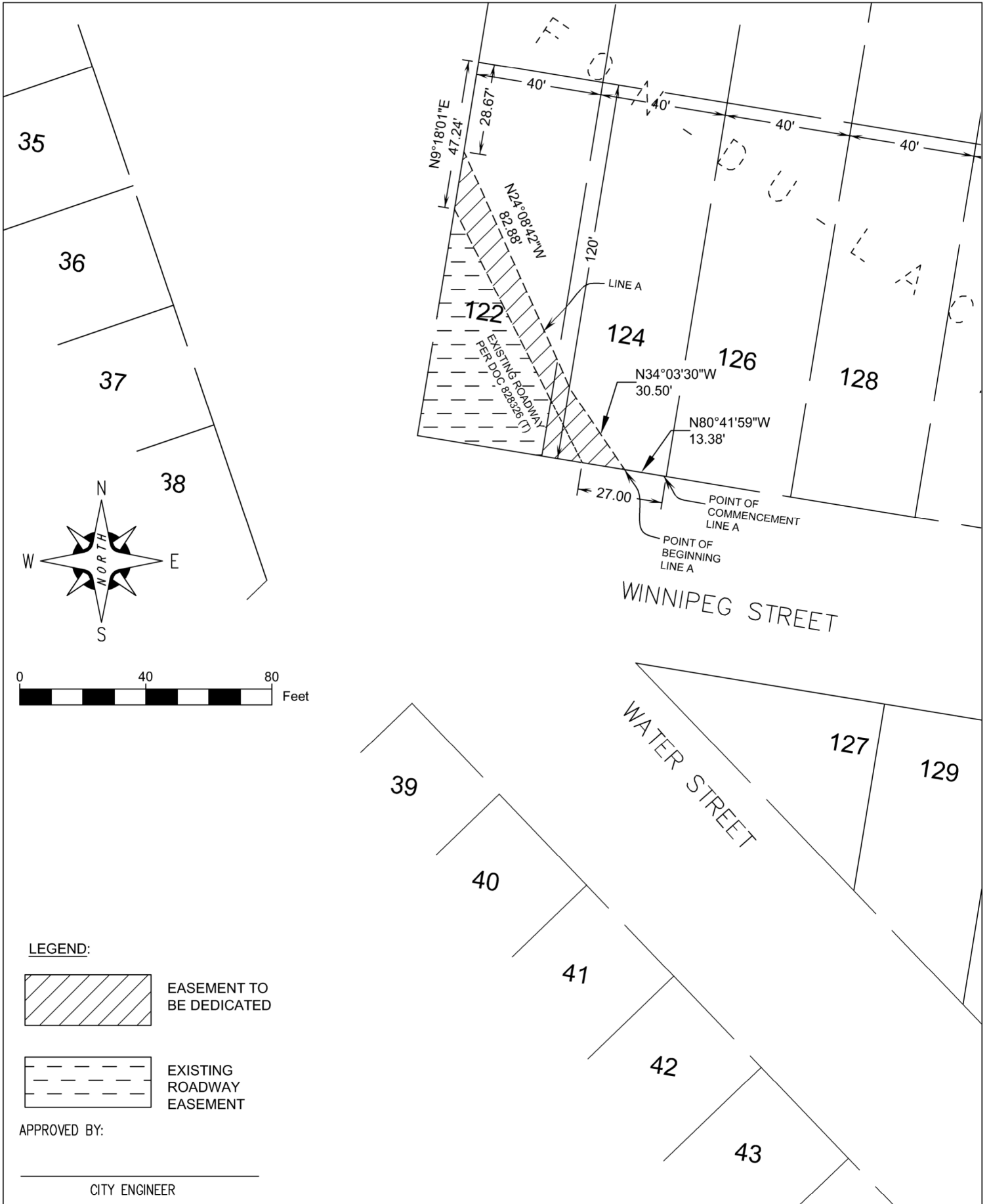
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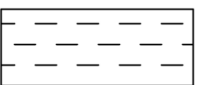
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VACATION OF WINNIPEG  
STREET &  
WATER STREET  
PAGE 2 OF 2



**LEGEND:**


-  EASEMENT TO BE DEDICATED
-  EXISTING ROADWAY EASEMENT

APPROVED BY:  
 \_\_\_\_\_  
 CITY ENGINEER

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**ROADWAY & UTILITY EASEMENT**  
**WATER STREET**  
 PAGE 1 OF 2

That part of said Lot 122 Winnipeg Street, Fond Du Lac, according to the recorded plat thereof, bounded on the southwest by the northeast line of an existing easement filed for record with St. Louis County Registrar of Titles as Doc. No. 828326, said northeast line described as follows:

Beginning at a point on the west line of said Lot 122, Fond Du Lac Winnipeg Street, 47.24 feet south of the north line of said Lot 122, to a point on the south line of Lot 124, of said Fond Du Lac Winnipeg Street, 27.00 feet west of the east line of said Lot 124, thereby terminating.

And on the northeast by a line described as follows (Line A):

Commencing at the southeast corner of said Lot 124; thence west 13.38 feet along the south line of said Lot 124 bearing North 80 degrees 41 minutes 59 seconds West to the point of beginning of said line; thence North 34 degrees 03 minutes 30 seconds West a distance of 30.50 feet; thence North 24 degrees 08 minutes 42 seconds West a distance of 82.88 feet to the west line of said Lot 122 at a point that is 28.67 feet south of the northwest corner of said Lot 122 and said line there terminating.

TOGETHER WITH that part of Lot 124, Winnipeg Street in said plat of Fond du Lac that lies southwesterly of said Line A.

Said easement is 1011.8 square feet more or less.

Basis of Bearing is the St. Louis County Transverse Mercator 1996 Coordinate System.

APPROVED BY:

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CITY ENGINEER

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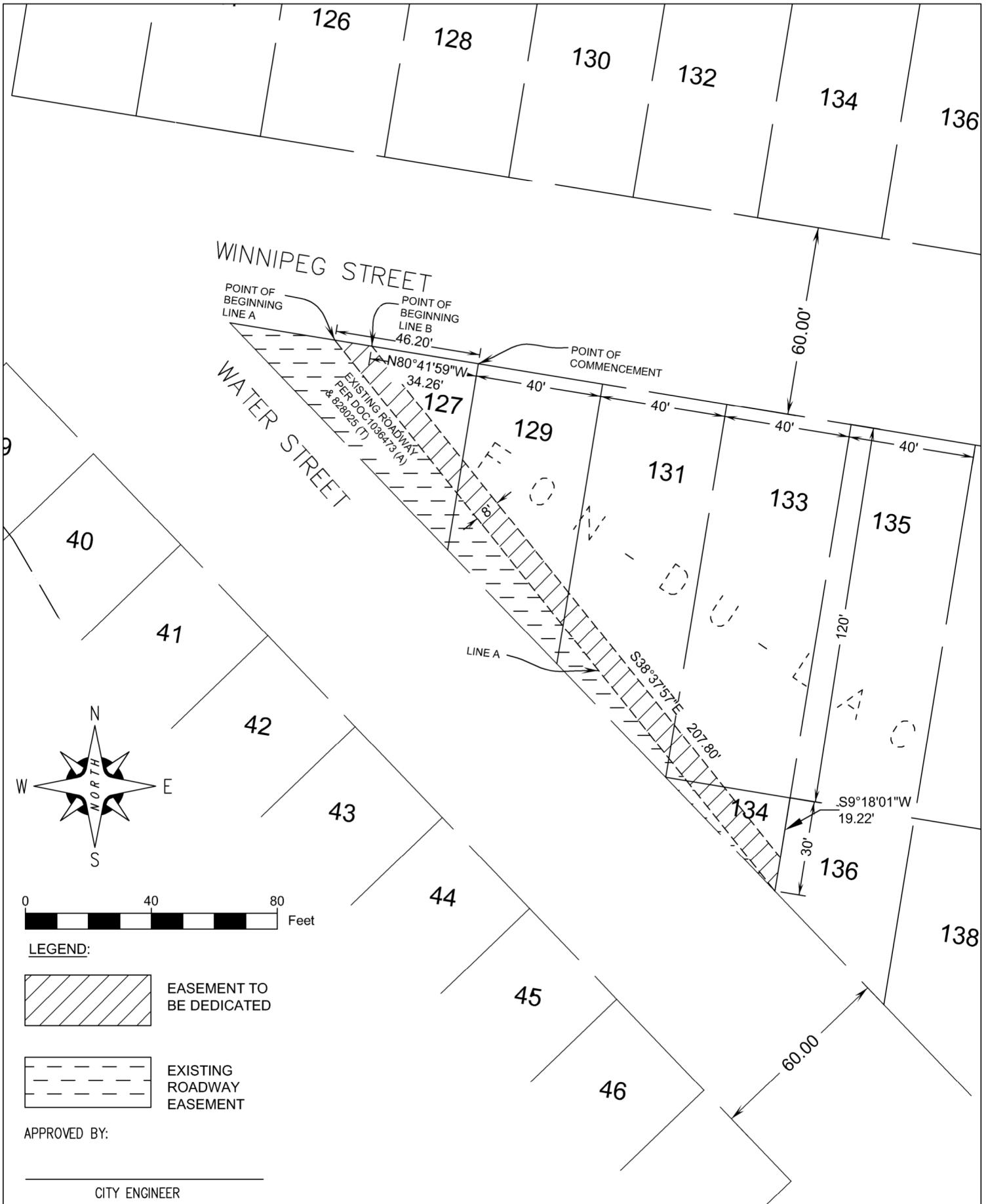
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ROADWAY & UTILITY  
EASEMENT  
WATER STREET  
PAGE 2 OF 2



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**ROADWAY & UTILITY  
EASEMENT  
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PAGE 1 OF 2**



That portion of Lots 127, 129, 131 and 133, Winnipeg Street, Fond Du Lac and Lot 134, Water Street, Fond Du Lac, according to the recorded plat thereof, lying between the following described lines:

Bounded on the southwest by the northeast line of an existing easement filed for record with the St. Louis County Recorder as Doc. No. 1036473 and St. Louis County Register of Titles as Doc. No. 828025, described as follows (Line A):

Beginning at a point on the north line of said Lot 127 that is 46.20 feet westerly of the northeast corner of said Lot 127 to a point on the east line of said Lot 134 distant 30.00 feet southerly of the northeast corner of said Lot 134 and said line there terminating.

And bounded on the northeast by a line (Line B) described as follows:

Commencing at the northeast corner of said Lot 127; thence west 34.26 feet along the north line of said Lot 127 bearing North 80 degrees 41 minutes 59 seconds West to the point of beginning of a line that is parallel with and distant 8.00 feet northeast of said Line A; thence South 38 degrees 37 minutes 57 seconds East along said parallel line 207.80 feet to the east line of said Lot 134 at a point that is 19.22 feet south of the northeast corner of said Lot 134, and said line there terminating.

Said easement is 1726.7 square feet more or less.

Basis of Bearing is the St. Louis County Transverse Mercator 1996 Coordinate System.

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