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Gerald V. Enderson, and Wife,
Delores E. Enderson; Paul F.
Ebersole, and Wife,
Mildred J. Ebersole

PLAT OF ENDERSON'S SUB-DIVISION OF
MENEYATA PARK.

Dated
Ack'd May 25, 1971.

Filed May 28, 1971, at 10:45 A.M.
Recorded in Plat Book 7, page 86, and
Abstract Book 10, page 221.

#23 To

The Public.

Proceedings show:-

PROPRIETORS' CERTIFICATE.

"Know All Men By These Presents:

That I, Gerald V. Enderson, and I, Delores E. Enderson, his wife,
and we, Paul F. Ebersole and Mildred J. Ebersole, husband and wife,
have caused the tract of land shown in the Plat of Endersons
Subdivision of Meneyata Park, which Plat is hereto attached, to be
surveyed, staked and platted as shown in and by the attached plat
and the Certificate of James W. VanderWoude of DeWild, Grant, Reckert
& Associates Co. who surveyed, staked and platted the same; that it
is with the free consent and in accordance with the desires of the
undersigned, that the dedication of this area is subject to the
following restrictions, to-wit:-

1. No building shall be erected on any lot in said plat within twenty (20) feet of the front of a lot abutting on a street or within five (5) feet of any adjoining lot or within twenty-five (25) feet of any canal, provided, however, that a boathouse may be erected within twenty-five (25) feet of a canal (but not within five (5) feet of an adjoining lot) so long as it is constructed so that it does not extend more than four (4) feet above lot grade level and provided further that any boathouse shall have a flat roof. The front of a lot abutting on a canal is deemed to be that portion of the lot abutting the canal. The front of lot one (1) Seventh Addition is deemed to be that portion of the lot facing Danny Avenue. The front of Lot one (1), Sixth Addition is deemed to be Lindale Street. The front of Lot eight (8), Sixth Addition and the front of Lot one (1) Fourth Addition is deemed to be Deend Street. The front of lot eight (8) Fourth Addition is deemed to be Hope Street. The front of Lots Seventeen (17) through thirty-six (36) in the Third Addition is deemed to be the canal.

2. In the First Addition and Second Addition and in Lots one (1) through nineteen (19) in the Third Addition, no buildings (except a boathouse as above provided) shall be erected on any lot except a one-family dwelling house containing at least Seven Hundred and Twenty (720) square feet or a private garage which garage shall conform aesthetically in appearance and materials to the dwelling on said lot. No lots or structure erected thereon shall be used for commercial purposes or any other use other than for residential purposes. All construction shall be of a permanent nature and mobile homes or homes of a single-unit or modular-type construction are expressly forbidden.

3. In the Fourth Addition, Fifth Addition, Sixth Addition, Seventh Addition and Lots twenty (20) to twenty-six (26) inclusive, and Lots twenty-eight (28) through thirty-six (36) inclusive, of the Third Addition, no buildings (except a boathouse as above provided) shall be erected on any lot except a one-family dwelling house containing at least seven hundred and twenty (720) square feet or a private garage conforming aesthetically in appearance and materials to the dwelling on said lot. No lots or structure erected thereon shall be used for commercial purposes or any other use other than residential. Mobile homes and homes of a single-unit sectional or modular-type construction shall be permitted provided all wheels and tongues are removed and the structure is placed on a permanent foundation, permanent foundation being defined as a concrete block, brick, clay tile, or poured concrete foundation or other foundation of a material as permanent and lasting. Permanent porches, cabanas, or other permanent additions may be included in computing square footage, provided, however, that the basic mobile home unit or unit of modular type construction is at least Six Hundred (600) square feet.

4. Multiple family dwellings shall be permitted in the Eighth Addition and Ninth Addition. Lots or structures erected thereon may be used for commercial purposes in the Eighth Addition and Ninth Addition.

5. A utility easement is hereby reserved over and across an area five (5) feet along and adjacent to every street contained within the plat attached hereto.

6. All residences and commercial structures within the Plat shall be connected to a sanitary sewer.

7. No boat hoist or dock shall extend a distance of more than six (6) feet into a canal from the adjacent lot line.

8. All streets within the plat are hereby dedicated to the Incorporated Town of Wahpeton.

9. Lot twenty (20) in the Second Addition is hereby dedicated to all property owners within the plat as common property and is known as Fontanelle Park; Lot twenty-seven (27) in the Third Addition is hereby dedicated to all property owners within the plat as common property and shall be known as Minnehaha Park.

10. All lots shall be kept clean and neat and no refuse or accumulation of weeds shall be allowed.

11. All provisions of this plat are subject to the terms and conditions of a Declaration of Covenants, Conditions and Restrictions of a Lot Owners' Association of Endersons Subdivision of Meneyata Park which is filed contemporaneously herewith, and the by-laws relating thereto.

12. Any restrictions or restrictive covenants contained within this Proprietor's Certificate may be enforced by any lot owner by injunction or any other remedy in the District Court of Iowa.

That Gerald V. Enderson is the Contract Vendee of a Real Estate Contract dated March 27, 1968, and filed in Deed Record 55, at page 251, in the office of the Dickinson County Recorder.

That Paul F. Ebersole and Mildred J. Ebersole are contract Vendors and hereby assent to all terms and conditions contained herein.

Mildred J. Ebersole, Gerald V. Enderson,
Paul F. Ebersole, Delores E. Enderson."

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.

"This Declaration, made this 28th day of May, 1971, by Gerald V. Enderson, hereinafter called 'Declarant'.

Witnesseth:

Whereas, the Declarant holds an interest in real property he desires to plat, said plat being called the plat of Enderson's Subdivision of Meneyata Park, and,

Whereas, said Declarant desires to create thereon a residential and business community with certain common areas for the benefit of the property and the owners of lots therein, and,

Whereas, the Declarant desires to provide for the preservation of the values and amenities of said community and for the maintenance of said common areas to this end and desires to subject the real property to the covenants, conditions, restrictions and charges hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof, and

Whereas, the Declarant has deemed it desirable for the efficient preservation of the values and amenities of said community to create an agency to which should be delegated and assigned the powers of maintaining and administering the common properties and facilities and administering and enforcing the covenants, conditions and restrictions and collecting and disbursing the assessments and charges hereinafter created, and

Whereas, there has been incorporated in conjunction with this project, a non-profit corporation, Lot Owners' Association of Endersons Sub-division of Meneyata Park, for the purpose of exercising the functions aforesaid,

Now Therefore, the Declarant hereby declares that the real property contained within the plat of Endersons Subdivision of Meneyata Park is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, and charges as hereinafter set forth.

ARTICLE I. Definitions.

The following words, when used in this Declaration, shall have the following meanings:

(a) 'Association' shall mean and refer to Lot Owners' Association of Endersons Sub-division of Meneyata Park.

(b) 'Common Properties' and/or 'Common Areas' shall mean and refer to those areas of land shown as such on the recorded plat of Enderson's Sub-division of Meneyata Park, and shall be that area of said plat not deeded to an individual or corporate entity for separate use, but rather that area which is intended to be diverted to the common use and enjoyment of the owners of lots within the Plat of Endersons Sub-Division of Meneyata Park.

(c) 'Lot' shall mean and refer to any plot of land subject to individual ownership shown upon the recorded plat of Endersons Sub-Division of Meneyata Park, with the exception of Common Properties as hereinabove defined.

(d) 'Owner' shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated in said plat, and shall include both a contract seller and a contract buyer, but shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure, or secured possession by Court Order.

(e) 'Member' shall mean and refer to the person or entity who is an owner and who has been designated to hold the membership certificate of the Association as provided in the Articles of Incorporation of Lot Owners' Association of Endersons Sub-Division of Meneyata Park.

(f) 'Declarant' shall mean and refer to Gerald V. Enderson, his successors or assigns, when designated as such by him in an instrument filed of record in the Dickinson County Recorder's Office.

(g) 'Voting'. All voting and computation of votes referred to in the Declaration by the members shall be as provided in the Articles of Incorporation of Lot Owners' Association of Endersons Sub-division of Meneyata Park.

ARTICLE II. Property.

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is all Lots located within the plat of Endersons Sub-division of Meneyata Park, with the exception of Lot Twenty (20) in the Second Addition which shall hereafter be known as Fontenelle Park, and Lot Twenty-seven (27) in the Third Addition which shall hereafter be known as Minnehaha Park. Each of the two parks as above set forth are common property.

ARTICLE III. Membership.

Membership in the Association and voting rights of a member as well as provision regarding multiple ownership of individual lots shall be provided and specified in the Articles of Incorporation of Lot Owners' Association of Endersons Sub-Division of Meneyata Park.

ARTICLE IV. Property Rights in Common Properties.

1. Members' Easement of Enjoyment. Subject to the provisions and limitations of Section 3, hereinafter every member shall have a right and easement of enjoyment in and to the common properties and such easements shall be appurtenant to and shall run with the title of each and every lot in the plat of Endersons Sub-Division of Meneyata Park.

2. Title to Common Properties. The Declarant may retain the legal title to the common properties until such time as, in the opinion of the Declarant, the Lot Owners' Association of Endersons Sub-Division of Meneyata Park, is able to maintain the same, but, notwithstanding any provision herein, the Declarant hereby covenants for himself, his successors and assigns, that he shall convey the Common Properties to the Association not later than December 31, 1975.

3. Extent of Members' Easements. The rights and easements of enjoyment created hereby and the title of the Association to the

Common Properties shall be subject to the following:

(a) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving or repairing the Common Properties, and in aid thereof to mortgage said properties, and the rights of such mortgages in said properties shall unless foreclosed by Court Decree be subordinate to the rights of the members hereunder; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure; and

(c) The right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid against his Lot or which is due from said member and to suspend the said enjoyment rights for any period not to exceed thirty (30) days and to impose a penalty assessment not to exceed Ten Dollars (\$10.00) for each infraction of its published rules and regulations. Said rules and regulations shall be published as prescribed in the By-Laws of the Association.

(d) The right of the Association to dedicate, convey or transfer all or any part of the common property to any public agency, authority, utility or non-profit corporation for such purposes and subject to such conditions as may be agreed to by the members, and as provided in the Articles of Incorporation of Lot Owners' Association of Endersons Sub-Division of Meneyata Park.

4. Delegation of Use. Any member may delegate, in accordance with the By-Laws of Lot Owners' Association of Endersons Sub-Division of Meneyata Park, his right of enjoyment to the common properties to the members of his family, his tenant who is in actual possession of a Lot in the plat of Endersons Sub-Division of Meneyata Park, or contract purchaser who resides on property being sold in said plat.

ARTICLE V. Assessments and Liens.

1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned by him within the properties hereinabove described, hereby covenants and each Owner of any lot in the Plat of Endersons Sub-Division of Meneyata Park by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, and any beneficiary, heir or successor in interest to any owner, shall be deemed to covenant and agree to pay the Association: (1) annual assessments or charges assessed by the Association, (2) special assessments for capital improvements as ordered or authorized by the Association, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall after due date be a charge and lien on the land and a charge against each person or entity against whom charged, and shall be a continuing lien on the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of providing for the maintenance, preservation and improvement of the common properties for recreation, health, safety and welfare of the Lot Owners, including, but not limited to, the payment of taxes on the Common Properties, insurance, repairs, replacements and for the cost of labor, equipment, materials, management and supervisions.

3. Basis and Maximum of Annual Assessments. There shall be no assessment until the year beginning January 1, 1971, or until such date Declarant deeds the common areas to the Association. Beginning January 1, 1971, or upon a deed from Declarant, the annual assessment shall be established by vote as hereinafter provided, and may thus be altered in each succeeding year. The Board of Directors of the Association may each year beginning January 1, 1973, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year in a lesser amount than assessed originally.

4. Special Assessments for Capital Improvements or Special Use. In addition to the annual assessment authorized by Section 3 hereof, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any permanent improvement, unexpected repair or replacement, or other capital improvement upon the common properties, provided, however, that any such assessment shall have the assent of two-thirds (2/3's) of the votes of the entire voting membership of the association who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent by ordinary mail to each member at his last known address, at least seven (7) days in advance and shall set forth the purpose of the meeting.

5. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each lot for each assessment period and the same shall be done at least thirty (30) days in advance of such date or period. The Board of Directors shall at that time prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association or by the Treasurer of the Association, and shall be open to inspection by any member.

Written notice of the assessment shall thereupon be sent to every member subject thereto by ordinary mail at the last known address of the member and notice shall be deemed to be given as of the date of said mailing.

The Association shall upon demand at any time furnish to any member liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

6. Effect of Non-Payment of Assessment; The personal Obligation of the Owner; the Lien; Remedies of Association. If the assessments are not paid on the date when due (being the date specified by the Board of Directors of the Association) then such assessment shall become delinquent and shall, together with interest thereon and costs of collection thereof, as hereinafter provided, thereupon become a continuing lien on the property which shall bind such properties in the hands of the then Owners, grantees, devisees, personal representatives and assigns. The personal obligation of the Owner of the Lot at the time such assessment fell due, to pay such assessment, however, shall in addition to the lien on the land, remain his personal obligation for a period of five (5) years from due date of the assessment.

If the assessment is not paid within thirty (30) days after the due date the same shall be delinquent and the assessment thus delinquent shall bear interest from the date of delinquency at the rate of nine per cent (9%) per annum and the Association may bring an action of law against the Owner personally obligated to pay the same, or for a period of two (2) years after such delinquency may bring an action in equity to foreclose the lien against the property against which the

assessment became effective, and there shall be added to the amount of such assessment and interest such attorney fees as the Court may grant as reasonable and proper as well as the costs of such action and interest. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Properties or abandonment of his lot.

7. Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessments; provided, however, in the event of foreclosure and sale under decree of foreclosure, such subordination shall apply only to the assessments which have become due and payable prior to such sale of property under decree of foreclosure, and shall not release any property from liability for any assessments, thereafter becoming due, nor from the lien of any such subsequent assessments.

8. Exempt property. The following property subject to this Declaration shall be exempted from the assessments charged and the lien created herein:

(a) All properties exempted from taxation by the laws of the State of Iowa upon the terms and to the extent of such legal exemption

(b) All Common Properties or Common areas as defined in Article I hereof.

ARTICLE VI. GENERAL PROVISIONS.

1. Duration. The covenants, conditions and restrictions, as set forth in this Declaration shall run with the land and shall enure to the benefit of and be enforceable by the Association or the Owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date of this Declaration is recorded. After the initial twenty-year period, said Declaration shall until prohibited by law, be automatically renewed for successive periods of ten (10) years. The covenants, conditions and restrictions of this Declaration may be amended by the affirmative vote of at least seventy-five (75%) per cent of the total votes of the entire voting membership of the Association as provided in the Articles of Incorporation of the Association. Any amendment shall be of no force until recorded in the office of the Dickinson County Recorder.

2. Notices. Any notice required to be sent to any member under the provisions of this Declaration shall be deemed to have been properly sent when mailed postpaid by ordinary mail to the last known address of the person who appears as member of the records of the Association at the time of such mailing, and shall be deemed complete upon mailing. Whenever a notice is required to be given the same shall refer and contemplate notice to the person or entity holding the membership certificate for a lot and by accepting any deed to any lot in the plat of Endersons Sub-Division of Meneyata Park whether expressed in said Deed or not the grantee shall be conclusively presumed to have constituted the person holding the membership certificate as the proper person to whom any notice should be sent that may be required in this Declaration and agrees that notice to such person holding the membership certificate for said lot shall constitute notice to such grantee.

3. Enforcement. Enforcement of these covenants, conditions and restrictions may be by any proceeding at law or in equity, against any entity, person or persons, violating or attempting to violate any covenant, condition or restriction, either to restrain violation or to recover damages, and may be brought also against the lot and/or living unit to enforce any lien created by these covenants; and failure by the Association or by any owner to enforce any covenant,

condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

4. Severability. Invalidation of any one of these covenants, conditions or restrictions or any portion thereof by judgment or Court Order or operation of law, shall in no way effect any other provision which shall remain in full force and effect.

Gerald V. Enderson."

Duly acknowledged on May 25, 1971.

Delores E. Enderson, wife of Gerald V. Enderson, ratifies and confirms the foregoing Declaration, May 25, 1971.

ENGINEER'S CERTIFICATE.

"Boundary Description: Enderson's Subdivision in Meneyata Park. (Identical with description set forth at Exhibit 1, Entry #20 above)

I hereby certify that the above described property was surveyed under my supervision and the above plat as shown is a true and accurate representation of that survey.

James W. Vander Woude, Professional
Engineer and Land Surveyor, #5517.

Date, Aug. 10, 1970." (Seal affixed.)

ATTORNEY'S OPINION.

Walter W. Barbee, for Narey & Barbee, Attorneys, Spirit Lake, Iowa, certifies, under date of May 28, 1971, that he has examined Abstract of Title to the real property described (as at the aforementioned Exhibit 1, Entry #20) and finds good and merchantable title to same vested in Paul F. Ebersole and Mildred J. Ebersole, as joint tenants with right of survivorship, and not as tenants in common, subject to a Contract for the sale of said premises to Gerald V. Enderson, dated May 27, 1968, recorded in Deed Rec. 55, page 251. Further that the premises are subject to all zoning and restrictive ordinances of the incorporated Town of Wahpeton, Iowa, and subject to rights of parties in possession. Further cautions against improvements or repairs for which a mechanic's lien might be filed, and cautions as to boundary lines. Based on Abstract of Title certified by Brainard Abstract Company, May 28, 1971, at 10:45 A.M.

Said Abstract was filed and recorded with these proceedings.

APPROVAL OF PLANNING AND ZONING COMMISSION.

Attached are minutes of a Special Meeting of the Planning & Zoning Commission of the Incorporated Town of Wahpeton, dated Feb. 25, 1971, at which three members were present. A motion was made, seconded and carried that the Proprietor's Certificate and the Plat of Endersons Subdivision of Meneyata Park as presented be approved by the Commission for submission to the Wahpeton Town Council. Certified correct by Verlyn J. DeWall, Secretary of said Planning & Zoning Commission.

APPROVAL OF TOWN COUNCIL.

Certificate of Filmore Stoermer, Mayor, and Duane S. Hansen, Clerk of the Town of Wahpeton, Iowa, certifies that at a meeting of the Town Council of said Town on Mar. 1, 1971, the Plat of Endersons Subdivision of Meneyata Park, and proprietor's certificate relating thereto were approved by resolution, introduced and adopted by unanimous roll-call vote, and the Mayor and Clerk are directed to attach a certified copy of said resolution to said Plat. Certified correct by Duane S. Hansen, Town Clerk of the Town of Wahpeton, with Seal of said Town affixed.

TREASURER'S CERTIFICATE.

"I, Marie Barrett, being first duly sworn, depose and state that I am the duly elected, qualified and acting Treasurer of Dickinson County, Iowa; that I hereby certify that there are no unpaid taxes or tax liens of record in my office against the following described premises, to-wit: (Identical description to that set forth at Exhibit 1 of Entry #20 above.) the same now being laid out in lots as Enderson's Subdivision in Meneyata Park.

Dated at Spirit Lake, Iowa, this 28 day of May, 1971.

(SEAL)

Marie Barrett, County Treasurer."

CLERK'S CERTIFICATE.

"State of Iowa, Dickinson County, SS:-

I, A. L. Stephenson, being first duly sworn, do hereby depose and state that I am a duly elected, qualified and acting Clerk of Court of Dickinson County, Iowa; that I hereby certify that there are no judgments, attachments, suits commenced; notices of lis pendens, Mechanic's liens or other liens filed of record in my office against the following premises, to-wit:-

(refers to attached copy of description identical to that set forth at Exhibit 1 of Entry #20 above)

the property now laid out as lots and platted by Gerald V. Enderson and wife, Delores E. Enderson, with Paul F. Ebersole and Mildred J. Ebersole as Contract Ventors. I further certify that I find no judgments or liens of any character against Paul F. Ebersole or Mildred J. Ebersole, or against Gerald V. Enderson or Delores E. Enderson.

Dated at Spirit Lake, Iowa, this 28th day of May, 1971.

(SEAL)

A. L. Stephenson, Dickinson County Clerk of Court."

RECORDER'S CERTIFICATE.

"State of Iowa, Dickinson County, SS:-

I, Ione McClintock, being first duly sworn, do hereby state that I am the duly elected, qualified and acting Recorder of Dickinson County, Iowa; that I hereby certify that title to the following described premises, to-wit:-

(refers to attached copy of description identical to that set forth at Exhibit 1 of Entry #20 above)

the same having been laid out in lots and platted by Gerald V. Enderson and wife, Delores E. Enderson, and Paul F. Ebersole and Mildred J. Ebersole, husband and wife, as contract vendors, is vested in Paul F. Ebersole and Mildred J. Ebersole, subject to a Contract for the purchase and sale of said real estate in favor of Gerald V. Enderson and is clear of liens and encumbrances as shown by the Abstract of Title with opinion thereon by an Attorney at Law, filed with the plat of Enderson's Subdivision in Meneyata Park as shown by the records of my Office.

Dated at Spirit Lake, Iowa, this 28 day of May, 1971.

(SEAL)

Ione McClintock, County Recorder."