

Doc ID: 025840160011 Type: GEN
Kind: CONDOMINIUM AMEND
Recorded: 12/31/2014 at 03:39:42 PM
Fee Amt: \$57.00 Page 1 of 11
Johnson County Iowa
Kim Painter County Recorder
BK **5319** PG **683-693**

Return to +
Prepared by: Matthew J. Adam, Simmons Perrine Moyer Bergman PLC, 1100 5th Street, Suite 205, Coralville, IA 52241, (319) 354-1019 Phone
Taxpayer Information: Midwest Home Builders, Inc.; 3128 Lyle Drive, Iowa City, Iowa 52240

FIFTH AMENDMENT TO
DECLARATION OF SUBMISSION OF PROPERTY
TO HORIZONTAL PROPERTY REGIME

FOR

FOX TAIL, A CONDOMINIUM

WHEREAS, the undersigned Developer executed the Declaration of Submission of Property to Horizontal Property Regime for Fox Tail, a Condominium, and filed the same for record on June 6, 2013 in Book 5103, Page 69-136 in the records of the Recorder of Johnson County, Iowa, and

WHEREAS, the undersigned Developer executed the First Amendment to Declaration of Submission of Property to Horizontal Property Regime for Fox Tail, a Condominium, and filed the same for record on October 17, 2013 in Book 5171, Page 392-394, in the records of the Recorder of Johnson County, Iowa, and

WHEREAS, the undersigned Developer executed the Second Amendment to Declaration of Submission of Property to Horizontal Property Regime for Fox Tail, a Condominium, and filed the same for record on May 21, 2014 in Book 5232, Page 457-470, in the records of the Recorder of Johnson County, Iowa, and

WHEREAS, the undersigned Developer executed the Third Amendment to Declaration of Submission of Property to Horizontal Property Regime for Fox Tail, a Condominium, and filed the same for record on July 16, 2014 in Book 5258, Page 910-915, in the records of the Recorder of Johnson County, Iowa, and

WHEREAS, the undersigned Developer executed the Fourth Amendment to Declaration of Submission of Property to Horizontal Property Regime for Fox Tail, a Condominium, and filed the same for record on 12-31, 2014 in Book 5319, Page 681, in the records of the Recorder of Johnson County, Iowa, and

WHEREAS, the Developer and Owner pursuant to the authority contained in the original Declaration hereby executes this instrument to serve as the Fifth Amendment to the Declaration of Submission of Property to Horizontal Property Regime for Fox Tail, a Condominium (the "Fifth Amendment").

The Fifth Amendment shall take effect when filed in the Office of the Recorder of Johnson County, Iowa.

ARTICLE I **PURPOSE**

1. The purpose of this Fifth Amendment is to is to fully describe, define and submit Units 208, 210, 212 and 214, and Units 216, 218, 220 and 222 to the Horizontal Property Regime for Fox Tail, a Condominium, all as required and permitted by Article I(3) of the Declaration.

ARTICLE II **PLANS AND SPECIFICATIONS; PARTICULARS**

1. Site Plan. The Site Plan which shows the location of Units 208, 210, 212 and 214 referenced by this Fifth Amendment is shown on the Amended Exhibit B, attached hereto. The Site Plan which shows the location of Units 216, 218, 220 and 222 referenced by this Fifth Amendment will be filed with the Johnson County Recorder's Office. Units 208, 210, 212, 214 and a portion of Unit 216 are located, on Lot 69, and a portion of Unit 216, and Units 218, 220 and 222 are located on Lot 70, Fox Ridge – Part Three, Solon, Iowa, according to the plat thereof recorded in Book 49, Page 293, plat records of Johnson County, Iowa.

2. Plans and Specifications. The Building Plans for Units 208, 210, 212 and 214 are shown on the Amended Exhibit C, attached hereto. The Building Plans for Units 216, 218, 220 and 222 will be filed with the Johnson County Recorder's Office. The Building Specifications for Units 208, 210, 212 and 214, and Units 216, 218, 220 and 222 are the same as those attached to the original Declaration as Exhibit D.

3. Effective Amendment. Upon the recording of this Fifth Amendment, Units 208, 210, 212 and 214, and Units 216, 218, 220 and 222 are hereby submitted to the Horizontal Property Regime for Fox Tail, A Condominium, and are capable of being owned as separate parcels of real estate. Units 208, 210, 212 and 214, and Units 216, 218, 220 and 222 shall be subject to the Declaration as amended, as if each Unit had been initially submitted to the Regime by the Declaration.

4. Except as specifically amended hereby, the original Declaration and previous Amendments remain in full force and effect.

5. Construction of Units. The construction of Units 208, 210, 212 and 214, and Units 216, 218, 220 and 222 shall be in accordance with the terms of this Fifth Amendment and the original Declaration and as previously amended and the Plans and Exhibits attached hereto.

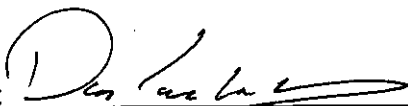
6. Engineer's Certificate. The Engineer's Certificate with respect to the Units identified by this Fifth Amendment will be filed with the Johnson County Recorder's Office.

ARTICLE III
VOTING RIGHTS

The provisions of the Article V of the Declaration are superseded to the extent inconsistent with the provisions of this Fifth Amendment. The fraction of ownership interest in common elements is an undivided one thirty-fourth ($1/34^{\text{th}}$) and the total number of votes outstanding and entitled to be cast by owners is thirty-four (34), which is equal to the number of Units.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed this 30 day of December, 2014.

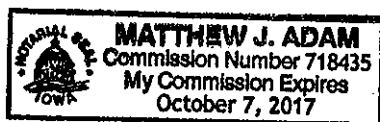
MIDWEST HOME BUILDERS, INC., Developer

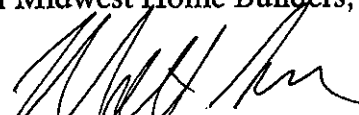
By: 
Dan Sweeting, President

STATE OF Iowa)
)
COUNTY OF Johnson)

ss:

This instrument was acknowledged before me on this 30 day of December, 2014, by Dan Sweeting, as President of Midwest Home Builders, Inc.




Notary Public in and for said State
My commission expires 10-7-17

Prepared by:	Kelly J. Beckler MMS Consultants, Inc.	1917 S. Gilbert Street Iowa City, Iowa 52240	319-351-8282 319-351-8476 facsimile
After recording return to:	Matthew J. Adam Simmons Perrine Moyer Bergman PLC	1100 5 th Street, Suite 205 Coralville, Iowa 52241	319-354-1019

Amended Exhibit "E"
Engineer's Certificate
Fox Tail, A Condominium
Units 208, 210, 212 and 214
(208, 210, 212 and 214 Will Drive, respectively)

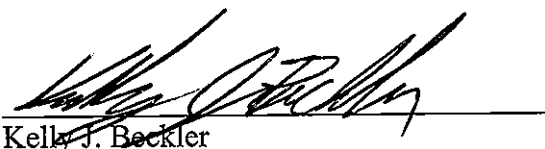
STATE OF IOWA)
) ss:
JOHNSON COUNTY)

I, Kelly J. Beckler, being first duly sworn on oath do depose and state the following:

1. That I am a Professional Engineer authorized and licensed to practice my profession in the State of Iowa.
2. That I have examined the attached building plans labeled as Amended Exhibit "C" to the Declaration of Condominium for Fox Tail, A Condominium, as recorded in Book 5103, Page 69 and following of the records of the Recorder of Johnson County, Iowa.
3. I hereby certify that I have verified by non-destructive field observations that the above referenced building plans diagrammatically represent the building in Fox Tail, A Condominium, Units 208, 210, 212 and 214 (208, 210, 212 and 214 Will Drive, respectively) located therein, and the common elements that the Declarant has now constructed on the land shown on the Site Plan attached to said Declaration of Condominium, as Amended Exhibit "B", insofar as is reasonably possible due to expected carpentry tolerances, except for the following:

a. Sheet A3, Main Level Floor Plan

- 1) In all Units, the common wall between the Kitchen and Bedroom #2 was constructed in the following manner. The common wall was constructed such that Bedroom #2 measures at a distance of 9'-8" along the entire length of the wall up to a point that is 3'-0" from the entry door for Bedroom #2, (a distance measuring 8'-4" from the exterior wall of Bedroom #2). At this point the measured distance in Bedroom #2 returns to the 10'-1" depicted on the referenced Building plans. An enclosed Pantry measuring 2'-8" by 1'-8" on the interior has been constructed in the space noted as a "Pantry Cabinet" on the referenced Building Plans. The Pantry has a 1'-6" left-hand door.
4. I hereby certify that the attached Site Plan – Amended Exhibit "B", locates the building with Units 208, 210, 212 and 214 (208, 210, 212 and 214 Will Drive, respectively) in Fox Tail, A Condominium. That as a licensed Professional Engineer, I hereby certify that said Site Plan is sufficient to determine with reasonable certainty the location of the building with Units 208, 210, 212 and 214 (208, 210, 212 and 214 Will Drive, respectively) in Fox Tail, A Condominium, and hereby certify that said Building and Units, as constructed, are located as indicated on said Site Plan.



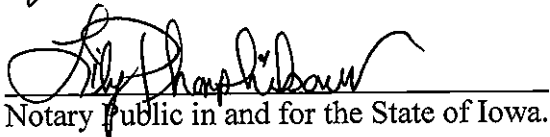
Kelly J. Beckler

Iowa License Number 14624

My biennial license renewal date is December 31, 2014.

Subscribed and sworn to before me by said Kelly J. Beckler this 19th day of

December, 2014.

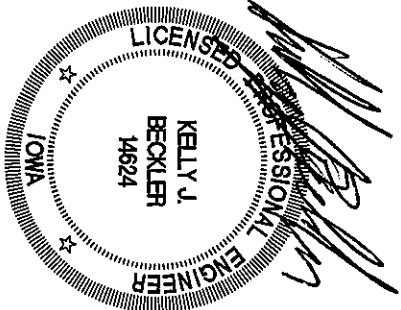


Notary Public in and for the State of Iowa.



AMENDED EXHIBIT "B" - SITE PLAN
FOX TAIL, A CONDOMINIUM
SOLON, IOWA

LEGAL DESCRIPTION
LOTS 69 AND LOT 70, FOX RIDGE - PART THREE, SOLON, IOWA, ACCORDING
TO PLAT THEREOF RECORDED IN BOOK 49, PAGE 293, PLAT RECORDS OF
JOHNSON COUNTY, IOWA.



I hereby certify that this engineering document was prepared by
me or under my direct supervision and that I am a duly licensed
Professional Engineer under the laws of the State of Iowa.

KELLY J. BECKLER,

P.E. Iowa Lic. No. 14624

My license renewal date is December 31, 2016.

Pages or sheets covered by this seal:

SHEET 1 OF 1



CIVIL ENGINEERS
LAND PLANNERS
LAND SURVEYORS
LANDSCAPE ARCHITECTS
ENVIRONMENTAL SPECIALISTS

1917 S. GILBERT ST.
IOWA CITY, IOWA 52240
(319) 351-8282

www.mmsconsultants.net

Date	Revision
09/27/13	ADD UNITS 201, 203, 205, 207 -J/S
01/23/14	ADD UNITS 301 THRU 307 -JDM
07-22-14	ADD UNITS 209 THRU 217 -JDM
07-23-14	UNITS 308 thru 313 & 401 thru 403 -JDM
08-26-14	UNITS 200 THRU 206 -JDM
12-12-14	UNITS 208 THRU 214 -JDM

AMENDED EXHIBIT "B"
- SITE PLAN

FOX TAIL,
A CONDOMINIUM
SOLON
JOHNSON COUNTY
IOWA

MMS CONSULTANTS, INC.

Date:

08-09-13

Designed by: DAM

Field Book No.

Drawn by: JDM

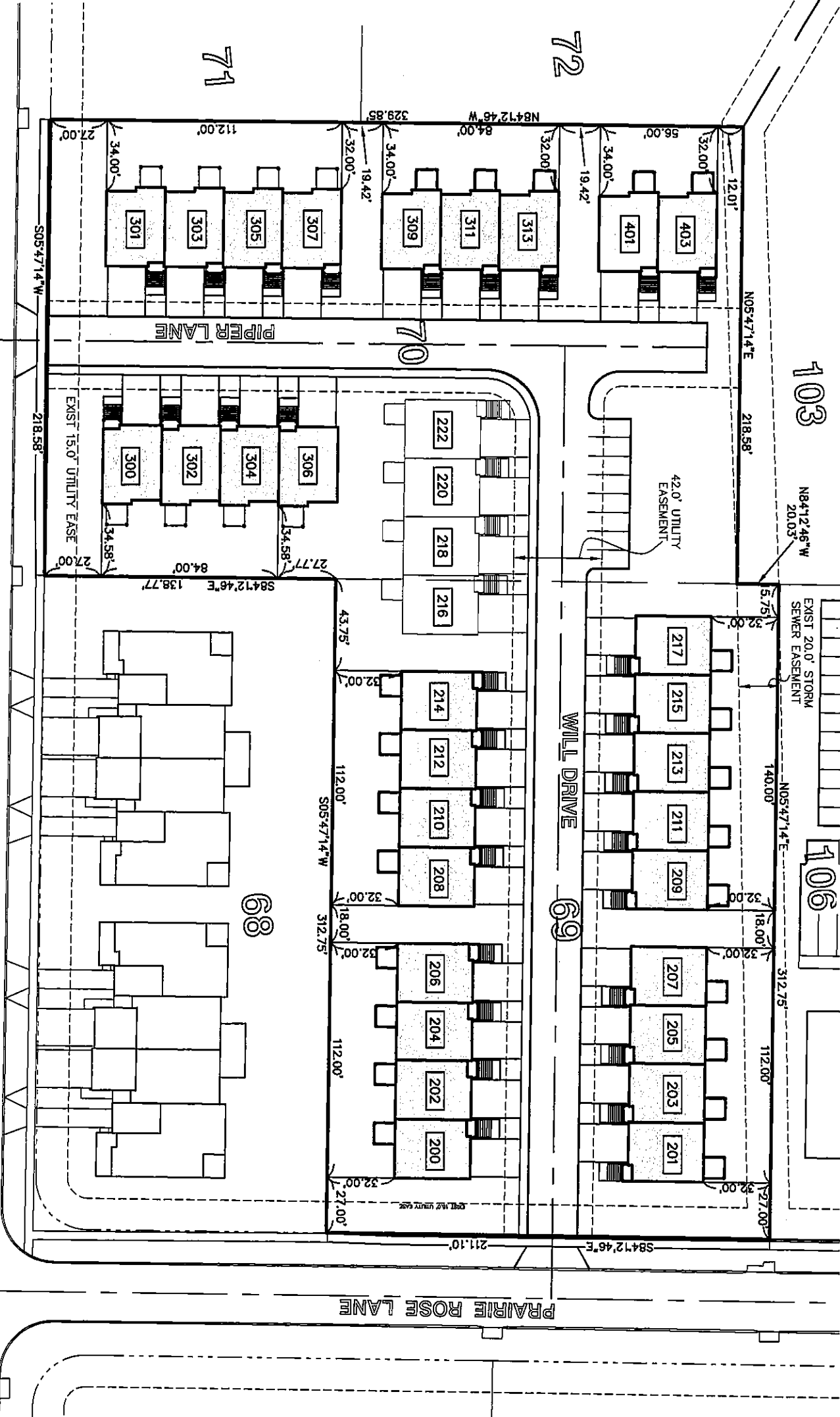
Scale: 1"=60'

Checked by: KJB

Sheet No: 1

Project No: IC 6886041

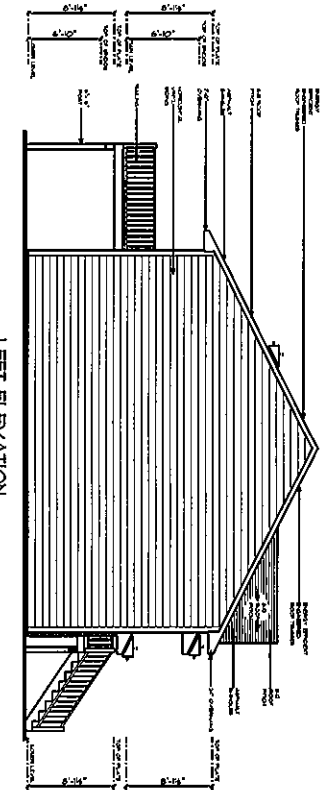
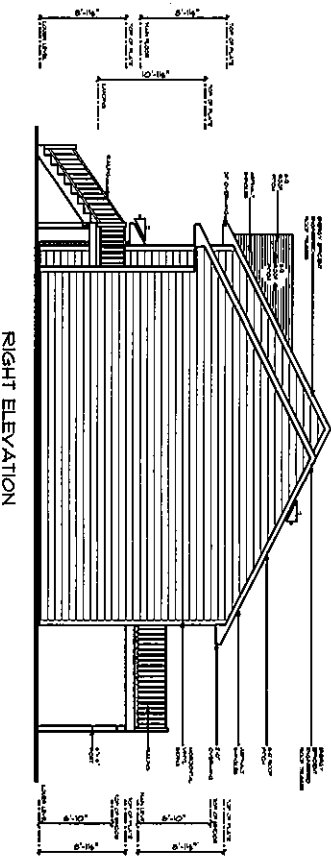
of: 1



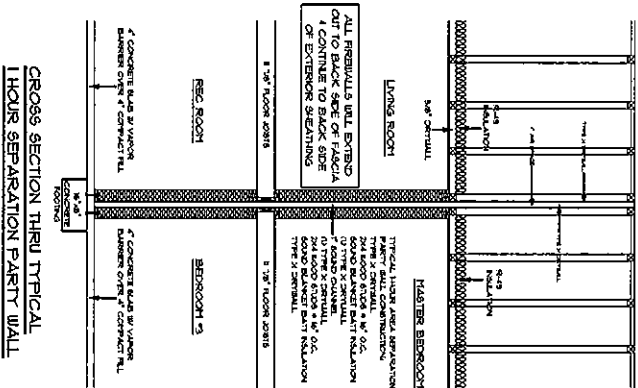
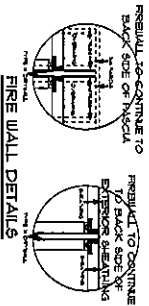
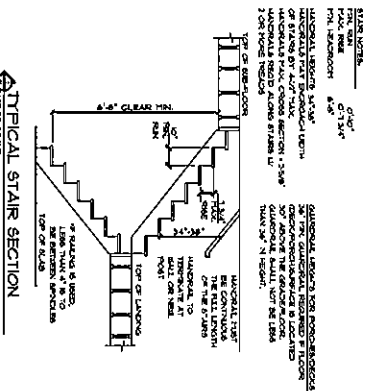
NOTES:

1. ALL MEASUREMENTS FROM PROPERTY LINES TO BUILDINGS ARE PERPENDICULAR AND/OR RADIAL TO SAID PROPERTY LINES.
2. THIS DRAWING DEPICTS IMPROVEMENTS COMPLETED AS OF 12/12/14.
3. REFERENCE BUILDING PLANS, AMENDED EXHIBIT "C" FOR BUILDING DIMENSIONS.
4. THIS IS A CONDO SURVEY AND NOT A BOUNDARY OR PROPERTY SURVEY AND SHOULD NOT BE RELIED UPON AS SUCH. THE PROPERTY BOUNDARIES ARE RECORD DIMENSIONS AND APPROXIMATE ONLY.

XXX - INDICATES PIPER LANE OR WILL DRIVE ADDRESS

[illegible]

RIGHT ELEVATION



CROSS SECTION THRU TYPICAL
1 HOUR SEPARATION PARTY WALL

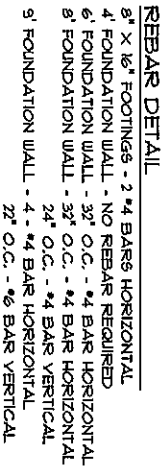
The figure contains architectural drawings and a title block. At the top, there is a copyright notice: "COPYRIGHT 2001 DESIGN ELEMENTS, LLC. ALL RIGHTS RESERVED. NO PART OF THIS DOCUMENT MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM DESIGN ELEMENTS, LLC." Below this is a title block with the following text: "Amended Exhibit 'C'", "Fox Tail, A Condominium", "Units 208, 210, 212 and 214", "(208, 210, 212 and 214 Will Drive, Respectively)", "Solon, Iowa". To the right of the title block is a section drawing of a building, showing a staircase and various structural elements. To the left of the title block is an elevation drawing of a building, showing a staircase and various structural elements. The drawings are labeled with dimensions and notes. The title block also includes a scale of "1/8\" = 1'-0\"", a date of "02/07/2003", and a project number of "IM306". The title block is signed by "A.I." and includes the text "DESIGN ELEMENTS".

COPYRIGHT 2001 DESIGN ELEMENTS, LLC. ALL RIGHTS RESERVED. NO PART OF THIS DOCUMENT MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM DESIGN ELEMENTS, LLC.

Amended Exhibit "C"
Fox Tail, A Condominium
Units 208, 210, 212 and 214
(208, 210, 212 and 214 Will Drive, Respectively)
Solon, Iowa

SCALE: 1/8" = 1'-0"
DATE: 02/07/2003
DRAWN BY: CDM
CHECKED BY: CDM
PROJECT NUMBER: IM306

DESIGN ELEMENTS
RESIDENTIAL LIGHT COMMERCIAL DRAFTING
LONE TREE • IOWA • 52755
319.631.4370
CHRISTINA@GLIDER@MSN.COM



FOUNDATION PLAN

- ## FOUNDATION NOTES
- 1800 PPS SOL BEARING PRESURE ASSURED FOR FOOTING DESIGN. FOOTING AS NEEDED IF DIFFERENT CONDITIONS ARE ENCOUNTERED
 - DO NOT BACKFILL BASEMENT WALLS UNTIL FIRST FLOOR IS IN PLACE
 - 3000 PSI (8) CONCRETE (TYPICAL)
 - DO NOT PLACE ANY FOOTINGS ON DISTURBED SOIL - IF ENCOUNTERED, OVER EXCAVATE AND EXTEND FOOTING DEPTH
 - FOOTINGS ARE TO MEET LOCAL FROST FOOTING REQUIREMENTS

A2.

SCALE: 1/4" = 1'-0"

DATE: 02/07/2013

DRAWN BY: CDM

PROJECT NUMBER: M306

Amended Exhibit "C"
Fox Tail, A Condominium
Units 208, 210, 212 and 214
(208, 210, 212 and 214 Will Drive, Respectively)
Solon, Iowa

• DESIGN • ELEMENTS •

RESIDENTIAL • LIGHT COMMERCIAL DRAFTING

LONG TREE • IOWA • 52755

319 • 629 • 444

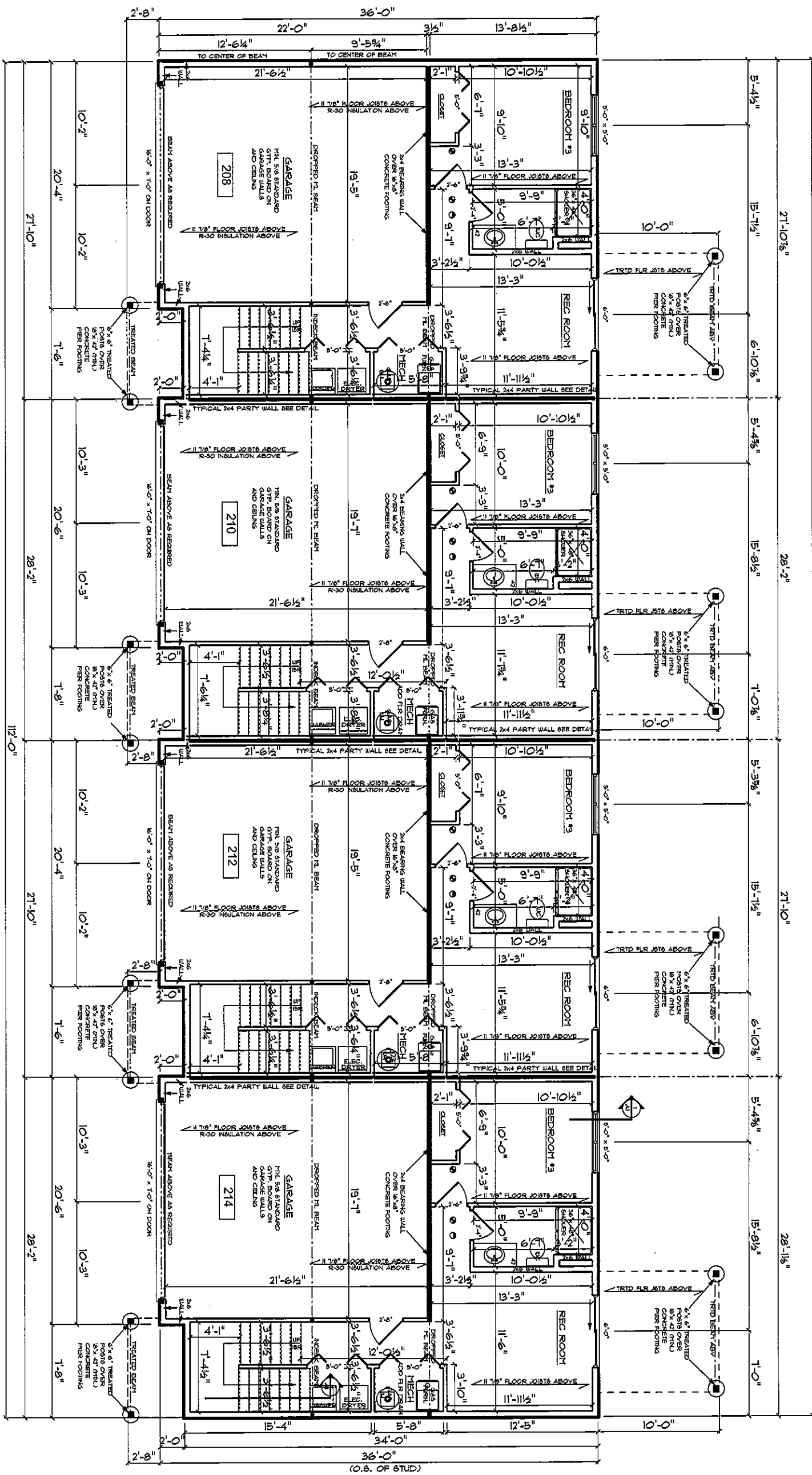
CHRISTNAGELDER@YALLO.COM

REVISIONS

© COPYRIGHT 2011 DESIGN ELEMENTS, LLC

DESIGN ELEMENTS IS NOT AN INDICATION THAT THESE PLANS SHOULD BE RECEIVED BY A CONSTRUCTION PROFESSIONAL. THE CLIENT AND BUILDER OF THIS PLAN RELEASES DESIGN ELEMENTS FROM ANY CLAIMS OR LAWSUITS THAT COULD ARISE BEFORE OR AFTER THE CONSTRUCTION OF THIS HOME OR BUILDING. IN CONCLUSION, ALL STRUCTURAL MEMBERS, DIMENSIONS, AND DETAILS MUST BE CAREFULLY REVIEWED BY A STRUCTURAL DESIGN PROFESSIONAL.

12'-0" (O.S. OF STUD)



REVISIONS

DESIGN ELEMENTS
RESIDENTIAL • LIGHT COMMERCIAL DRAFTING
LATE TREE • WVA • 52755
56 • 629 • 4445
CHRISTINA@LATETREEVA.COM

Amended Exhibit "C"
Fox Tail, A Condominium
Units 208, 210, 212 and 214
(208, 210, 212 and 214 Will Drive, Respectively)
Solon, Iowa

SCALE: 1/4" = 1'-0"
DATE: 02/07/2013
DRAWN BY: CDM
CHECKED BY: CDM
PROJECT NUMBER: M306

A3

LOWER LEVEL FLOOR PLAN

MAIN LEVEL: 992 SQ. FT.
LOWER LEVEL: 454 SQ. FT.
TOTAL SQ. FT.: 1446 SQ. FT.

- NOTES
- 8'-1 1/2" WALL HEIGHT UNLESS NOTED
 - SLIDER WINDOWS TO BE USED UNLESS NOTED - VERIFY SIZES
 - USE TEMPERED GLASS WHERE NEEDED TO MEET CODE REQUIREMENTS
 - ALL DIMENSIONS ARE TO BE DESIGNED AND CERTIFIED BY AN ENGINEER LICENSED IN THE STATE OF IOWA
 - EXTERIOR WALLS ARE 2x6'S AT 16" O.C.
 - INTERIOR WALLS ARE 2x4'S AT 16" O.C.
 - GARAGE WALLS ARE 2x6'S AT 16" O.C.
 - FLOOR JOISTS AND BEAM SIZES ARE TO BE DETERMINED BY SUPPLIER
 - 2x6 FLOORING WALLS AS REQUIRED
 - 2x4 CLEARANCE IN FRONT OF OPENING TO SHOWER
 - 3" CLEARANCE IN FRONT OF WATER CLOSET
 - STAIRS - MIN. RISE 10" - MAX RISE 13 3/4"
 - LOCATION OF ATTIC ACCESS TO BE DETERMINED BY CONTRACTOR
 - SMOKE DETECTORS ARE TO BE INSTALLED IN ALL BEDROOMS, HALLWAYS AND AT ALL STAIRWELLS PER CODE
 - ALL EXTERIOR & BEARING WALL OPENINGS TO HAVE 2-PLY 2X10 HEADERS AS REQUIRED UNLESS SPECIFIED BY ENGINEER
 - MIN. R-9 ON ANY FLOORS OVER UNCONDITIONED SPACES

- CARBON MONOXIDE DETECTOR
- SMOKE DETECTOR

- INDICATES GAS METER
- ◆ INDICATES ELECTRIC METER
- INDICATES ELECTRIC PANEL

© COPYRIGHT 2011 DESIGN ELEMENTS, LLC
REGISTERED ARCHITECTURAL FIRM UNDER PROFESSIONAL ACT OF 1990

DESIGN ELEMENTS IS NOT A LICENSED ARCHITECTURAL FIRM. THESE PLANS SHOULD BE REVIEWED BY A LICENSED ARCHITECTURAL FIRM BEFORE CONSTRUCTION. THE CLIENT ASSUMES ALL LIABILITY FOR ANY VIOLATIONS OF THE IOWA BUILDING CODE. DESIGN ELEMENTS SHALL NOT BE RESPONSIBLE FOR ANY VIOLATIONS OF THE IOWA BUILDING CODE.

