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Date: 2/16/2011 1:30 PM
Subject: Traffic and Transportation clarifications for CEC
Attachments: Oakley Traffic & Transportation LORS.pdf

Good afternoon Pierre,

At the CEC's Feb 2, 2011 workshop, the City of Oakley indicated we are fine with replacing the reference to Oakley's CUP requirements in the Land Use Chapter with more specific LORS. This can be accomplished easily and logically for Traffic and Transportation by adding Oakley Municipal Code Title 6, Chapter 3, Articles 1 & 2, Road Dedication Standards (attached), to the list of applicable LORS and crafting a couple of Transportation Conditions that ties the Bridgehead Road requirements to the LORS.

For clarification, OGS's responsibility for road dedication and improvements would be just half of Bridgehead Road. The General Plan Circulation Element calls for Bridgehead Road to be a major arterial, and the Long Range Roadway Plan says four-lane divided. Further, the Municipal Code Chapter attached hereto states the project owner may enter into an agreement with the City that requires the property owner to install the improvements at such time that the City provides notice that their construction is required, otherwise known as a deferred improvement agreement. We commonly use deferred improvement agreements to coordinate frontage work on a specific roadway to be more efficient and effective when done as a comprehensive project instead of piece-meal work.

We recommend replacing the references to LAND-1 in the Traffic and Transportation Table 9 with new Transportation Conditions, TRANS-6 and TRANS-7, to read:

TRANS-6: Prior to commercial operation of the plant, the project owner shall enter into an agreement with the City of Oakley that requires the property owner to construct frontage road improvements of Bridgehead Road to City public road standards as determined by the agreement and at such time that the City provides notice that such construction is required (a deferred improvement agreement).

TRANS-7: The project owner shall convey to the City, by offer of dedication, the right of way for Bridgehead Road along the project frontage prior to commercial operation of the plant.

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The above LORS and TRANS-6 and TRANS-7 Conditions of Certification would provide a more logical route to meet the City's Municipal Code requirements for Bridgehead Road. Please feel free to contact me if you would like to discuss this further. Thank you.

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CHAPTER 3 ROAD DEDICATION STANDARDS

Article 1 ROAD DEDICATION IMPROVEMENT

6.3.100 Summary and Findings.

- a. The Oakley 2020 General Plan includes policies requiring that new development should be required to pay the cost of upgrading existing public facilities or construction of new facilities as needed to serve new development (see Policy 4.2.6, p. 4-4, of the General Plan); that the potential impacts of new growth will be mitigated through development fees and other exactions (see p. 4-3 and 4-4 of the General Plan) and; that the location, timing and extent of growth shall be guided through Capital Improvements Programming (CIPs) and financing (see 4.2.8, p. 4-4 of the General Plan).

- b. The General Plan contains numerous policies and goals related to the state of the City's current circulation facilities and the facilities that will be necessary as a result of build-out under the General Plan. One allows development only when transportation performance criteria are met and necessary facilities and/or programs are in place or committed to be developed within a specified period of time (see Programs 3.1.A, p. 3-3). It is a General Plan policy to mitigate conflicts between new roadway improvements and existing rural roadways when the identified conflicts threaten public health, safety and welfare (Policy 3.1.8, p. 3-3). It is also Policy to maintain a pavement management program and identify and prioritize projects in the City's Capital Improvement Program to maintain the quality and integrity of the City's roadway system. (Policy 3.1.E, p. 3-4)

- c. Additional General Plan policies require, as a goal of approved development, providing a safe transportation system. Local roads are to be designed to minimize detrimental impacts to public safety, health and welfare (p. 3-3). The City must encourage the use of local and collector roadways for neighborhood circulation (Policy 3.4.C, p.3-5). It is a General Plan policy that new development should not result in inconsistent street frontage improvements along streets adjacent to and serving a project (Policy 3.7.5, p. 3-7). It is also a General Plan policy to mitigate development impacts and ensure that new development pays its own way (Policy 3.7.4, p. 3-7). It is also policy to mitigate potential circulation conflicts between new roadways and existing rural roadways adjacent to new development (Policy 3.7.6, p. 3-7). Programs in the General Plan include collecting development impact fees and other fees and requiring any necessary roadway improvements and property dedications to ensure that each development project contributes its fair share toward necessary transportation improvement projects. (See Program 3.7.E, p. 3-7)

- d. In accordance with the General Plan and subsequent studies conducted by the City Engineer, staff has instituted a number of Capital Improvement Programs, one of which involves

closing gaps in the City's circulation system, in conformance with the General Plan goals and policies mentioned in subsection (c).

e. Development in the City prior to incorporation was inconsistent, leaving noticeable gaps in road paving, and curb, gutter and sidewalk construction.

f. Filling gaps is generally a requirement of property owners at the time of development.

g. The City determined that preservation of the public health, safety and welfare requires closing some of the gaps, prior to the development of property. The City's Capital Improvement Program (CIP) includes gap closure projects for such properties.

h. When funding becomes available through the CIP, the City intends to complete frontage improvements and seek reimbursement from property owners at the time of development.

6.3.102 Requirement.

No building or structure shall be erected, placed, or enlarged, and no building permit shall be issued therefor, unless the one-half of the street that is located on the same side of the center of the street as such lot has been improved for the full width of the lot in compliance with the standards provided in this chapter and dedicated to the City. In the case of either a corner lot or an L-shaped interior lot abutting an intersection, no building permit shall be issued for the lot unless the one-half of the streets on the same side of the center of the streets as the lot have been improved in compliance with the standards provided in this chapter and dedicated to the City. Additionally, no building permit shall be issued until frontage improvements, as defined in this Code, have been installed for the full width of the lot in compliance with the standards provided in this chapter and dedicated to the City. For the purposes of this section, the City Engineer shall determine the center of the street.

a. Alternatively, a building permit may be issued if the improvement and dedication requirements of this section have been assured to the satisfaction of the City Engineer, either by providing the City with a cash deposit equal to the cost of constructing the required improvements or by entering into an agreement with the City that requires the property owner to install the improvements at such time that the City provides notice that their construction is required. The City Engineer shall determine the amount of the cash deposit.

b. The City Engineer may reduce the requirements imposed by this section when he or she determines that less than the entire required improvement and dedication is necessary to mitigate the impacts of the development on which those requirements are imposed.

c. The maximum area of land required to be so dedicated shall not exceed 25% of the area of the parcel for which building permit is sought. In no event shall such dedication reduce the lot to a size that, under the Zoning Ordinance, is unsuitable for the proposed building or structure.

d. Nothing in this section shall require the dedication for street purposes of portions of a lot occupied by a legally existing permanent building or structure that is intended to remain on the lot.

e. No additional improvement shall be required on a lot if complete roadway, curb, gutter and sidewalk improvements exist within the present dedication contiguous thereto.

f. No building or structure shall be erected on any lot within the dedication required by this chapter.

6.3.104 Exceptions.

The provisions of Section 6.3.102 shall not apply to the following construction:

a. Additions and accessory buildings incidental to a residential building legally existing on the lot, but only if no additional dwelling units or guest rooms are created.

b. Additions and accessory buildings incidental to other than a residential building existing on the lot, but only if the total cumulative floor area of all such additions and accessory buildings shall not exceed 200 square feet.

c. Any building or structure, if the tentative or parcel map that created the lot on which it will be built was approved within the five-year period that preceded the submission of the building permit application, and if the provisions of this chapter could have been lawfully imposed as a condition of tentative map or parcel map. Even if the foregoing exception would otherwise prevent the application of the provisions of this chapter, those provisions may nevertheless be applied if, pursuant to Government Code Section 65691, the City finds that:

- 1) A failure to do so would place the residents of the subdivision or of the immediate community in a condition perilous to their health or safety.
- 2) Imposition of those provisions is required to comply with State or Federal law.
- 3) Withholding or refusing to issue a building permit is required to comply with State or Federal law.
- 4) Imposition of those provisions is required for compliance with the applicable Zoning Ordinance.

6.3.106 Dedication Procedure.

Any person required to dedicate land by the provisions of this chapter shall make an offer to dedicate, properly executed by all parties of interest including beneficiaries in deeds of trust as shown by a current preliminary title report prepared by a title company approved by the City Engineer for that purpose. The trustee under a deed of trust shall not be required to execute the dedicatory instrument, unless in the view of the City Engineer, such execution is necessary to

satisfactorily dedicate the land. The applicant shall provide the required report. The offer shall be on a form approved by the City Attorney and the City Engineer; shall include all terms necessary to bind the owner and his or her heirs, assigns, and successors in interest; and shall continue until the City Council accepts or rejects the offer. The offer shall provide that the dedication will be complete upon acceptance by the City Council. The City Engineer shall record the offer in the Office of the Contra Costa County Recorder upon accepting it. The City Engineer shall accept or reject the offer for recordation within 10 days after it is filed. The offer shall thereafter be promptly processed and submitted to the City Council. If the City Council rejects the offer or does not process it within one year, the City Engineer shall issue a release from the offer that shall be recorded in the Office of the Contra Costa County Recorder, unless the parties making the offer wish to have the time extended.

6.3.108 Improvement Procedure.

- a. Any person required to make improvements by the provisions of this chapter shall either make and complete the same to the satisfaction of the City Engineer or shall file with the City Engineer a bond or letter of credit in such an amount as the City Engineer shall estimate and determine to be necessary to complete all of the improvements required.
- b. The bond required by this section may be either a cash bond or a bond executed by a company authorized to act as a surety in this State. The bond shall be payable to the City and be conditioned upon the faithful performance of any and all work required to be done, and if the applicant fails to complete such work within the time specified, the City may at its option, cause the same to be done or completed, and the parties executing the bond shall be firmly bound under a continuing obligation for the payment of all necessary costs and expenses incurred in the construction thereof. The bond shall be executed by the owner of the lot as principal, and if a surety bond, shall also be executed by a corporation authorized to act as a surety under the laws of the State of California.
- c. Whenever the applicant elects to deposit a cash bond, the City is authorized, in the event of any default on the applicant's part, to use any or all of the deposit money or credit, respectively, to cause all of the required work to be done or completed, and for payment of all costs and expenses therefor. Any money remaining shall be refunded to the applicant.
- d. When a substantial portion of the required improvement has been completed to the satisfaction of the City Engineer and the completion of the remaining improvements is delayed due to conditions beyond the owner's control, the City Engineer may accept the completed portion and consent to a proportionate reduction of the surety bond in an amount estimated and determined by the City Engineer to be adequate to assure the completion of the required improvements remaining to be made.
- e. Whenever a surety bond has been filed in compliance with this section, the City is authorized, in the event of any default on the part of the principal, to enforce collection, under

such bond, for any and all damages sustained by the City by reason of any failure on the part of the principal faithfully and properly to do or complete the required improvements. In such circumstances, the City may additionally cause all of the required work to be done or completed, and the surety upon the bond shall be firmly bound for the payment of all necessary costs thereof.

f. The term of the bond shall begin on the date of the deposit of cash or the filing of the surety bond and shall end upon the date of the completion to the satisfaction of the City Engineer of all improvements required to be made. The fact of such completion shall be endorsed by a statement thereof signed by the City Engineer, and the deposit shall be returned to the owner, or the surety bond may be exonerated at any time thereafter.

g. For purposes of this section, improvement shall be considered as satisfactorily assured when the City Engineer accepts the cash or surety bond provided for herein or the improvements required to be made have been completed to his/her satisfaction. When the City Engineer accepts the bond or the work has been completed to his/her satisfaction, he/she shall notify the Building Inspection Department thereof.

6.3.110 Issuance of Building Permits After Certification of Dedication and Improvement.

When all dedication and improvements required by this section have been completed or satisfactorily assured, a building permit may be issued.

6.3.112 Fees.

a. Fees shall be charged to provide for the City's cost of investigating and processing the following services. The fees amounts shall be established by resolution of the City Council.

1) For all property subject to this section, whether or not any dedication or improvements are actually required, to provide for the cost of investigation.

2) If improvements or repairs are required, an additional fee to provide for the cost of bonding the improvements. In addition, the standard permit fees for constructing the improvements or repairs shall apply.

3) If dedication is required, an additional fee to provide for the cost of processing the real estate transfer documents.

b. The City Council shall have the authority to annually review the cost of providing this service and to adjust the fees by resolution in accord with the findings of its review.

6.3.114 Lots Affected By Street Widening.

On a lot that is affected by street widening required by the provisions of this chapter, all required yards, setbacks, parking area, loading space, and building locations for new buildings or structures or additions to buildings or structures shall be measured and calculated from the new lot lines created by the widening; provided, however, that for the purpose of establishing the

required front yard depth on a frontage where the ultimate street line has been determined under the provisions of this chapter, the depths of all existing front yards may be measured from the ultimate street line instead of the front lot line. In applying all other provisions of this chapter, the area of such lot shall be considered as that which existed immediately prior to the required street widening.

6.3.116 Improvement Standards.

The frontage improvements required by this chapter shall be built to the applicable standards provided for in Article 2 of this Chapter and Titles 8 and Title 9 of the Oakley Municipal Code. The City Engineer may approve and allow such variations from the aforesaid requirements as he/she determines are made necessary by the conditions of the terrain and the existing improvements contiguous to the property involved.

6.3.118 Appeals.

Any person required to dedicate land and/or make improvements under this chapter may appeal any determination made by the City Engineer to the Planning Commission. The decision of the Planning Commission may be appealed to the City Council. All such appeals shall be governed by the provisions of Article 3 of this Chapter.

6.3.120 City May Share The Cost of Making Unusual or Excessive Improvements.

Upon proper application to the City Council and upon recommendation of the City Engineer, the City may accept and provide for contribution toward the cost of making any improvement required by the provisions of this chapter that the City Engineer determines will involve costs for the applicant that are not roughly proportional to the circulation-related impacts of the proposed action.

6.3.122 City Engineer to Determine Street Alignment.

Whenever uncertainty exists as to the proper application of the provisions of this chapter in the matter of street alignment, the City Engineer shall determine their application in conformity with the spirit and intent of this chapter.

6.3.124 Written Notification to Permit Applicants Required.

When the City Engineer determines that the provisions of this chapter are applicable to any building permit application, he/she shall inform the permit applicant of the determination, of the specific requirements of this chapter applicable thereto, and of the availability and procedure for appeal of the determination.

6.3.126 City Construction of Frontage Improvements Pursuant to Capital Improvements Program (CIP).

When the City has determined that the frontage improvements required by Section 6.3.100(g) must be completed before development of a particular property to preserve the public health, safety and welfare, has included the frontage improvements as part of a CIP and has funded the

CIP, the City shall satisfy the requirements as set forth in Section 6.3.102. Reimbursement of the City's costs shall be a condition of approving development entitlements for the property for which the frontage improvements otherwise would have been a requirement.

a. The City Engineer shall provide written notice to the property owner and tenants of his/her intent to construct frontage improvements. Notice shall explain that reimbursement of the costs of constructing the improvements shall be a condition of approving development entitlements on or to the property. Notice shall be served at least 14 days in advance of the expected start date of the work on the frontage improvements.

b. The City Engineer shall issue a notice directed to the record owner of the parcel of the land. The notice shall, contain:

1. The street address and a legal description sufficient for identification of the parcel of land and structures thereon, if any.
2. A statement that the City Engineer has found frontage improvements necessary to preserve the public safety, health and welfare and a brief and concise description of the frontage improvement work to be performed.
3. Statements advising that the City Engineer will proceed to cause the work to be done and charge the costs thereof against the property or its owner.
4. Statements advising (i) that any person having any record title or legal interest in the parcel of land may appeal from the notice of any action of the City Engineer to the Planning Commission, provided the appeal is made in writing and filed with the Office of the City Engineer within seven days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

c. Service of Notice. The notice, including any amended or supplemental notice, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on any legal tenant of the property, if known to the City Engineer. The failure of the City Engineer to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served to relieve any such person from any duty or obligation imposed by the provision of this section.

d. Method of Service. Service of the notice shall be made upon all person entitled thereto either personally or by mailing a copy of such notice and order by first class mail to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the City Engineer. If no address of any such person so appears or is known to the City Engineer, then a copy of the notice and order shall be so mailed, addressed to such person at the address of the parcel of land involved in the gap closure improvements. The failure of any such person to receive

such notice shall not affect the validity of any proceedings. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

e. Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail shall be affixed to the copy of the notice and order retained by the City Engineer.

f. A property owner shall have the right of appeal as provided for in Article 3 of this Chapter.

g. The shall construct improvements in accordance with the standards in Article 2 and Titles 8 and Title 9.

h. The City Engineer shall keep an accurate account of the gap closure cost incurred by the City. Such account shall indicate, where appropriate, the costs attributable to each separate parcel of land upon which the frontage improvement work is performed. Following completion of the frontage improvement work, the City Engineer shall prepare a final itemized written report showing the total costs of the frontage improvements and he/she shall submit such report for confirmation by the City Council at its next available regular meeting. At least 10 days prior to the date of such meeting, a copy of the report together with a written notice of the date on which the same shall be considered by the City Council shall be mailed to the persons to whom written notice is mailed stating the City's intent to construct frontage improvements, as provided herein. A copy thereof shall also be posted upon the property involved and at City Hall.

i. Upon City Council confirmation, the Council shall adopt a resolution indicating that reimbursement shall be a condition of approving the development entitlements. Such resolution shall be certified by the City Clerk, and recorded with the County Recorder, clearly indicating the assessor's parcel number(s) (APN's) of the property.

Article 2 ROAD STANDARDS

6.3.202 Improvements.

For the purposes of this chapter, all principal thoroughfares and arterials shall be constructed, improved, and dedications made therefor in accordance with the following standards (insofar as this is practicable and will not create an undue hardship) and with the circulation element of the Oakley General Plan.

6.3.204 Principal Thoroughfares; Type A.

Principal thoroughfares, Type A, shall be dedicated to a width of 110 feet, with 72 feet of roadway, 20 feet of sidewalk area and 18 feet of dividing strip. Each one-half of the road shall consist of 9 feet of dividing strip, 36 feet of paved roadway, curbs and gutters, and 10 of sidewalk area with at least 4.5 feet thereof paved.

6.3.206 Principal Thoroughfares; Type B.

Principal thoroughfares, Type B, shall be dedicated to a width of 100 feet, with 64 feet of roadway, 20 feet of sidewalk area and 16 feet of dividing strip. Each one-half of the road shall consist of eight feet of dividing strip, 32 feet of paved roadway, curbs and gutters, 10 feet of sidewalk area with at least 4.5 feet thereof paved.

6.3.208 General Thoroughfares.

General thoroughfares shall be dedicated to a width of 84 feet, with 64 feet of roadway, and 20 feet of sidewalk area. Each one-half of the road shall consist of 32 feet of paved roadway, curbs, and gutters, and 10 feet of sidewalk area with at least 4.5 feet thereof paved.

6.3.210 General Arterials.

General arterials shall be dedicated to a width of 60 feet, with 40 feet of roadway, and 20 feet of sidewalk area. Each one-half of the road shall consist of 20 feet of paved roadway, curbs, and gutters, and 10 feet of sidewalk area with at 4.5 feet thereof paved.

6.3.212 Industrial Arterials.

Industrial arterials shall be dedicated to a width of 68 feet, with 48 feet of roadway, and 20 feet of sidewalk area. Each one-half of the road shall consist of 24 feet of paved roadway, curbs, and gutters, and 10 feet of sidewalk area with at least 4.5 feet thereof paved.

6.3.214 Property Line Returns.

Each intersection involving either a thoroughfare or arterial road shall be dedicated so as to provide a 30 foot curved corner radius at the intersection of such roads, which shall be improved in accordance with the standards for such road set forth in this chapter.

6.3.216 Improvement Agreement.

The property owner shall make an agreement with the City on the road improvements to be constructed by him/her. These road improvements shall include curb, gutter, sidewalk, necessary longitudinal storm drainage and the necessary structural pavement section. The City Engineer shall specify the structure design of the pavement section. The property owner may be required to repave one-half of the streets to the adopted center line of the street under the direction of the City Engineer in order to insure restoration of the street to its proper function. Street lighting where reasonably necessary shall be considered as a part of the improvements.

6.3.218 Improvement Placement and Construction.

The improvements required by this chapter shall be placed and constructed in accordance with Section 6.2.416, the ordinance specifications adopted by the City Council and as modified or supplemented by the City Engineer. Paved sidewalk installations shall comply also with Section 6.3.236.

6.3.220 Deviations.

The City Engineer may approve and allow such variations and deviations from the requirements of this chapter, as he/she determines are made necessary by the conditions of the terrain and the existing improvements in the immediate vicinity of the property and lot involved.

6.3.222 Road Width Review and Findings.

The City Engineer shall review the road widths shown on the City Major Roads Plan at the time of application, to determine their adequacy to serve the traffic generated by the proposed land use, adjacent land uses, and any other changes to the General Plan made by the adoption of the City Major Roads Plan; and his/her findings thereon shall become the requirements for dedication of right-of-way and the construction of improvements.

6.3.224 Road Access.

The City Engineer shall control access to roads, as to location, size, type, and number of driveways, so as to safely permit ingress and egress and so as to comply with standards and policy of the Engineering Department and this chapter.

6.3.226 Notice to Building Permit Applicant.

When the City Engineer determines that this chapter is applicable to any building permit application, he/she shall inform the permit applicant of his/her determination and findings as to the specific requirements of this chapter applicable thereto and of the availability and procedure for appeal of his/her determination to the Planning Commission.

6.3.228 Acceptance of Building Permit.

Acceptance of a building permit by an applicant after determination by the City Engineer that the provisions of this chapter are applicable shall constitute an agreement on behalf of the applicant and owner, their heirs, successors and assigns, to comply with all the terms and conditions imposed by the City Engineer's findings, this chapter, and all other applicable ordinances and statutes.

6.3.230 City Participation.

a. Costs. Upon proper written application to the City Council and investigation and recommendation to the Council by the City Engineer, the City may contribute to the costs of making any improvements required by this chapter, if the City Engineer determines that they are excessive due to topography or other natural causes or will greatly exceed the costs of other property owners in the immediate vicinity who are required to make improvements hereunder.

b. Plans. The applicant shall provide plans showing line and grade, and shall place one set of construction stakes. If the City Engineer cannot provide plans or survey stakes in time to coordinate with the applicant's schedule, the applicant will furnish construction plans for review and approval by the City Engineer before construction starts. The construction plans shall be prepared by a California Licensed Civil Engineer and shall be in accordance with the applicable sections of the Grading and Subdivision regulations of the Municipal Code.

6.3.232 City Engineer Determines Road Alignment.

Whenever uncertainty exists as to the proper application of this chapter in the matter of street alignment, the City Engineer shall determine its application in conformity with the spirit and intent of this chapter.

6.3.234 Lots Affected By Road Widening.

On a lot which is affected by road widening required by the provisions of this chapter, all required yards, setbacks, parking area, loading space, and building locations for new buildings or structures or additions to buildings or structures, shall be measured and calculated from the new lot lines being created by the widening; but, for the purpose of establishing the required front yard depth on a frontage where the ultimate curb line has been determined under the provisions of this chapter, the depths of all existing front yards may be measured from such ultimate curb line instead of the front lot line. In applying all other provisions of this Code, the area of such lot shall be considered as that which existed immediately before to such required road widening.

6.3.236 Sidewalks and Pedestrian Paths.

- a. Surfacing of Pedestrian Paths. Pedestrian paths shall be surfaced with the same material of the same thickness specified below for sidewalks and for a width of at least five feet.
- b. Locations of Sidewalks. Portland cement concrete sidewalks shall be provided at the following locations within the subdivision:
 - 1) Along all thoroughfares;
 - 2) Along all arterials, collector and minor streets which serve as direct access to schools within one mile of an existing school or school site approved by the local school board. The one mile distance shall be measured along the shortest pedestrian route available or planned, measured from the closest boundary of the school site and subdivision;
 - 3) Along all streets wherein the area is zoned R-12 or in land use districts having a higher density;
 - 4) Along all streets within any portion of a subdivision zoned for multiple family, business, or commercial land uses.
- c. Sidewalk Width and Thickness. Sidewalks shall be at least 4.5 feet wide, exclusive of curbs, and not less than 3.625 inches thick.