

RESOLUTION

(Bus Shelter at Youth Center)

At a meeting of the Town Board of the Town of New Paltz, Ulster County, New York, held at the Town Hall, in New Paltz, New York, in said Town on the _____ day of _____, 2015 at _____ o'clock P.M., prevailing time.

The meeting was called to order by Supervisor Zimet, and upon roll being called, the following roll was taken:

	<u>Present</u>	<u>Absent</u>
Supervisor Susan Zimet	_____	_____
Council Member Jeffrey Logan	_____	_____
Council Member Kevin Barry	_____	_____
Council Member Daniel Torres	_____	_____
Council Member [vacant]		

The following resolution was offered by Council Member _____ who moved its adoption, seconded by Council Member _____, to wit:

WHEREAS, the Town of New Paltz owns and operates the property located at and known as 220 Main Street, Village and Town of New Paltz, Ulster County, New York, which said property is currently operated for purposes of a youth center; and

WHEREAS, the State of New York is the owner of lands used for shoulders, curbs, sidewalks and other highway purposes on the southerly side of the traveled portion of N.Y. State Route 299 adjacent to the northerly boundary line of the town owned youth center property referred to above; and

WHEREAS, the town board has determined that it would be beneficial to the residents of the town and village to locate and to construct a bus shelter upon the property of the State lying generally northerly of the youth center building on the aforesaid lands owned by the town the approximate location of which is shown on the diagram attached hereto and made a part hereof and marked "Schedule A;" and

WHEREAS, the State of New York, Department of Transportation has determined that prior to construction of the bus shelter, it is necessary for the town to obtain from the state a "Permit For Use of State-Owned Property" in the form and upon the conditions set forth on the proposed permit, a copy of which is attached hereto and made a part hereof and marked "Schedule B;"

NOW, THEREFORE, be it

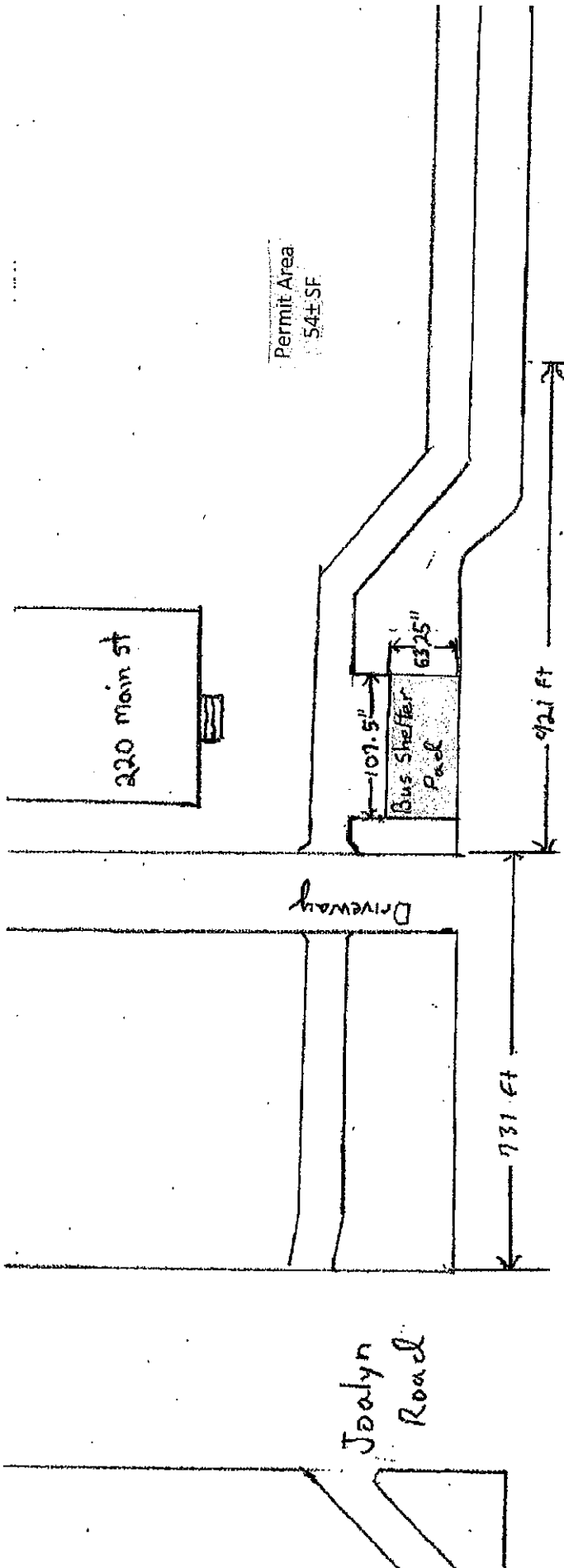
RESOLVED, that the Town of New Paltz proceed with the completion of all plans and undertake appropriate provisions for the construction of a bus shelter at the location shown generally on the attached "Schedule A;" and it is further

RESOLVED, that the Supervisor of the Town of New Paltz or the duly appointed Deputy Supervisor, as the case may be, be and they are hereby authorized to sign on behalf of the Town of New Paltz the "Permit For Use of State-Owned Property" in substantially the same form as attached and to sign such other, further and different documents as are necessary and proper to give full force and effect to the purposes and intents of this resolution.

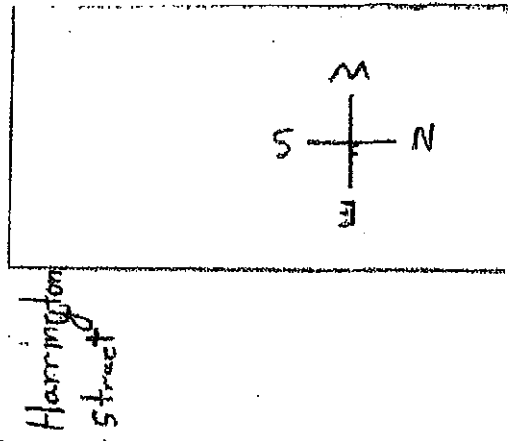
The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

<u>VOTE</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
Supervisor Susan Zimet	_____	_____	_____
Council Member Jeffrey Logan	_____	_____	_____
Council Member Kevin Barry	_____	_____	_____
Council Member Daniel Torres	_____	_____	_____
Council Member [vacant]	[no vote]		

The resolution was thereupon duly adopted.



Main Street - Route 299



**NEW YORK STATE DEPARTMENT OF TRANSPORTATION
OFFICE OF RIGHT OF WAY
PERMIT FOR USE OF STATE-OWNED PROPERTY**

PIN: S000.00.201

Permit Account No.: 82453

Property Location: South side of Route 299 adjacent to property located at 220 Main Street

Project: SH 1536, Highland -- New Paltz

Map No(s): N/A

Parcel No(s):

County: Ulster

Town: New Paltz

City/Village:

THIS PERMIT, made this _____ day of _____, 20____ between:

**Town of New Paltz
PO Box 550
1 Clearwater Road
New Paltz, NY 12561**

hereinafter referred to as "Permittee", and the COMMISSIONER OF TRANSPORTATION FOR THE PEOPLE OF THE STATE OF NEW YORK, hereinafter referred to as "the State",

WITNESSETH:

WHEREAS the State is the owner of the above identified property, hereinafter referred to as "property" or as "premises"; and

WHEREAS the Permittee wishes to use and occupy said property;

NOW, THEREFORE, the State hereby grants this permit to the Permittee, subject to the following covenants and conditions:

1. The property covered by this permit shall be used only for the purpose of:
54± SF for a bus shelter as indicated on Page 8 and for no other purpose whatsoever.
2. The fee to be charged shall be: **\$1.00** payment waived per **year** beginning **6/01/2015**.
3. Payment of fee is due on the first of the month unless otherwise stated. Fee must be paid by check, bank cashier's check or money order payable to "Department of Transportation" and mailed or delivered to:

New York State Department of Transportation
Revenue Unit, POD 5-2
50 Wolf Road
Albany, NY 12232
4. The Permittee understands and agrees that if the full amount of the fee as stated herein is not paid within thirty (30) days from the date billed as indicated on the billing invoice, interest penalties and collection fees will be imposed under the provisions of Section 18 of State Finance Law.
5. The Permittee understands and agrees that the fee charged by the State may periodically be updated to reflect fair market value and the Permittee will enter into a new permit for the new fee if the permittee wishes to remain in occupancy. Failure to execute a new permit will require Permittee to immediately vacate the premises.

6. The Permittee acknowledges the State's right to collect a security deposit. This sum will be retained as security to ensure faithful performance of the permit and compliance with all terms by the Permittee. The State hereby acknowledges receipt of \$ N/A received on _____ by _____.

7. This permit supersedes the permit numbered N/A issued to _____ in the amount of \$ _____ per _____ and approved by the Director, Office of Right of Way on _____.

8. Permittee, at the Permittee's expense and for the term of the permit, shall furnish and show evidence of General Liability Insurance coverage issued by an insurance carrier licensed to do business in the State of New York for the protection of the State of New York and Permittee against any claims, suits, demands or judgments by reason of bodily injury, including death, and for any claims resulting in property damage occurring on or in proximity to the permit area.

Such General Liability Insurance shall be in the amount no less than \$2,000,000 (two million dollars) combined property damage and/or bodily injury, including death) single limit per occurrence, and shall name the People of the State of New York as an additional insured.

The Permittee will furnish the State with a certificate of insurance, with a thirty (30) days prior written notice of any cancellation or major change in the policy conditions. The Permit shall be voided if insurance is canceled, modified or lapses.

Approval of this permit shall be contingent upon receipt, by the State, of a copy of a properly executed insurance certificate.

9. Permittee is responsible for any repairs, improvements or maintenance work of any kind on the property at Permittee's expense. The State may, at any time, periodically inspect the premises to determine whether same is in good repair and maintenance, structurally sound, and that no unsafe, hazardous, unsanitary, or defective conditions exist.

10. Permittee hereby agrees to admit State representatives and prospective purchasers or Permittees to examine these premises during reasonable business hours.

11. Permittee shall not place or store, or allow others to place or store, any flammable, explosive, hazardous, toxic or corrosive materials, debris of any description, garbage or any materials commonly referred to as "junk" within the permit area, except fuel kept in the fuel tanks of legally parked vehicles allowed under the terms of this permit. Failure to comply with this provision may result in a ten (10) days written notice of cancellation of the permit in accordance with Provision 16 of the permit. The Permittee is responsible for the removal of these materials and/or all expenses incurred in their removal.

12. All arrangements of services for utilities, removal of garbage, rubbish, litter, snow and ice will be made by the Permittee at the Permittee's expense, unless hereafter specified. The State shall have no responsibility to provide any services not specifically set forth in writing herein. Permittee shall comply with all local and State building standards/codes in the installation or repair of any utilities including but not limited to electricity and plumbing. Permittee is responsible for keeping and maintaining the premises in a safe and clean condition, for the regular and prompt removal of garbage, rubbish, litter, snow and ice. Permittee shall be responsible for preventing damages to the plumbing system and premises caused by lack of heat or water damage from leaks.

13. Permittee is responsible to maintain the occupancy in compliance with any and all applicable local, State, and Federal laws, ordinances, codes, rules and regulations affecting the use of the property. Permittee shall not conduct or allow any use or activity on the premises inconsistent with law and shall not conduct or allow any use or activity on the premises which may require a permit or other approval by a government agency without having lawfully obtained such permit or approval.

14. The parties acknowledge that this instrument is not a lease but is merely a permit to occupy and use, and therefore a landlord-tenant relationship is not hereby created; and further, that since this is not a lease, Section 5-321 of the General Obligations Law does not apply to this permit to the extent permitted by law.
15. The State shall have no responsibility whatever for the loss or destruction of any improvements made by the Permittee or for personal property stored or being used on the premises.
16. This permit shall be renewed automatically for successive terms of one month each unless canceled by either party. Cancellation by the State requires thirty (30) days written notice, except for cause, in which event cancellation can be effected on ten (10) days written notice. Permittee may cancel this permit by giving thirty (30) days written notice.
17. Permittee shall not sublet the premises nor assign or transfer the permit to any other parties in part or in whole without the prior written consent of the State. Failure to comply with this provision may result in ten (10) days written notice of cancellation of the permit by the State, and the State may immediately take possession and terminate all rights of the Permittee as of such moment.
18. It is understood and agreed by and between the parties that the Permittee will () will not (X) be entitled to any relocation benefits provided under State and Federal law.
19. Permittee agrees and understands that the State is under no obligation to sell the property to the Permittee and that no commitment, express or implied, is made by the State to give the Permittee any preemptive right of purchase.
20. In accordance with Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the permittee will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status. Neither shall the Permittee discriminate in the use of this premises or any access thereto if such premises is used as a public accommodation or in connection with a public service.
21. The Permittee for his/her self, and/or the Permittee's personal representatives, successors in interest, and assigns as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land, that in the event improvements are made over or under such land and the furnishing of services thereon and/or facilities are constructed, maintained, or otherwise operated on the said property described in Item 1 of this permit for a purpose for which a New York State Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Permittee shall construct such improvements and maintain and operate such facilities and services such that (1) no person on the ground of race, color, or national origin, sex, age, and disability/handicap, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin, sex, age, and disability/handicap, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Permittee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964; and to Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes - Implementation and Review Procedures; and further as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the State shall have the right to terminate the permit and to re-enter and repossess said land and the facilities thereon, and hold the same as if said permit had never been made or issued.

22. Permittee hereby agrees to indemnify and save harmless the State from any claim or loss including legal expenses by reason of the use or misuse of the premises under this permit and/or from any claim or loss by reason of any accident or damage to any person or property being on said premises, caused by Permittee, its employees, agents or invitees.

23. If any of the provisions of this permit are held invalid, such invalidity shall not affect or impair other provisions herein which can be given effect without the invalid provisions, and to this end the provisions of this permit are severable.
24. This permit shall not be effective unless accepted and approved in writing by the State.
25. Additional provisions to permit: See Pages 6

ACCEPTANCE:

In consideration of the granting of the permit, the undersigned accepts all of the above terms, conditions and provisions.

TOWN OF NEW PALTZ

Soc. Sec. No.: _____

By: _____

Fed. I.D. No.: _____

Title: _____

STATE OF NEW YORK)
) SS:
COUNTY OF _____)

For Corporate Acknowledgments

On the _____ day of _____, in the year _____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Notary Public)

RECOMMENDED: _____ Date _____
Regional Real Estate Officer

ACCEPTED AND APPROVED: Commissioner of Transportation for the People of the State of New York

By: _____ Date _____
Director, Office of Right of Way

RIDER TO USE AND OCCUPANCY PERMIT #82453

26. A Highway Work Permit must be obtained, in advance, for each entry on NYS right-of-way for the purpose of erection, removal, modification, repair, replacement, or maintenance of any surface and subsurface improvement. Before a Highway Work Permit is issued, the Regional Permit Engineer is required to assure himself that the individual(s) proposing to perform work within the right-of-way has the expertise and equipment necessary to complete the work in a professional manner so as not to present a potential hazard to the public or subject New York State right-of-way to potential damage. The Permittee is responsible for the payment of any fees required to provide insurance coverage necessary in conjunction with the issuance of the Highway Work Permit. This Use and Occupancy Permit is immediately revocable if any stipulations and/or requirements listed in the Highway Work Permit are not adhered to by the Permittee, his agents, employees, contractors, or subcontractors.

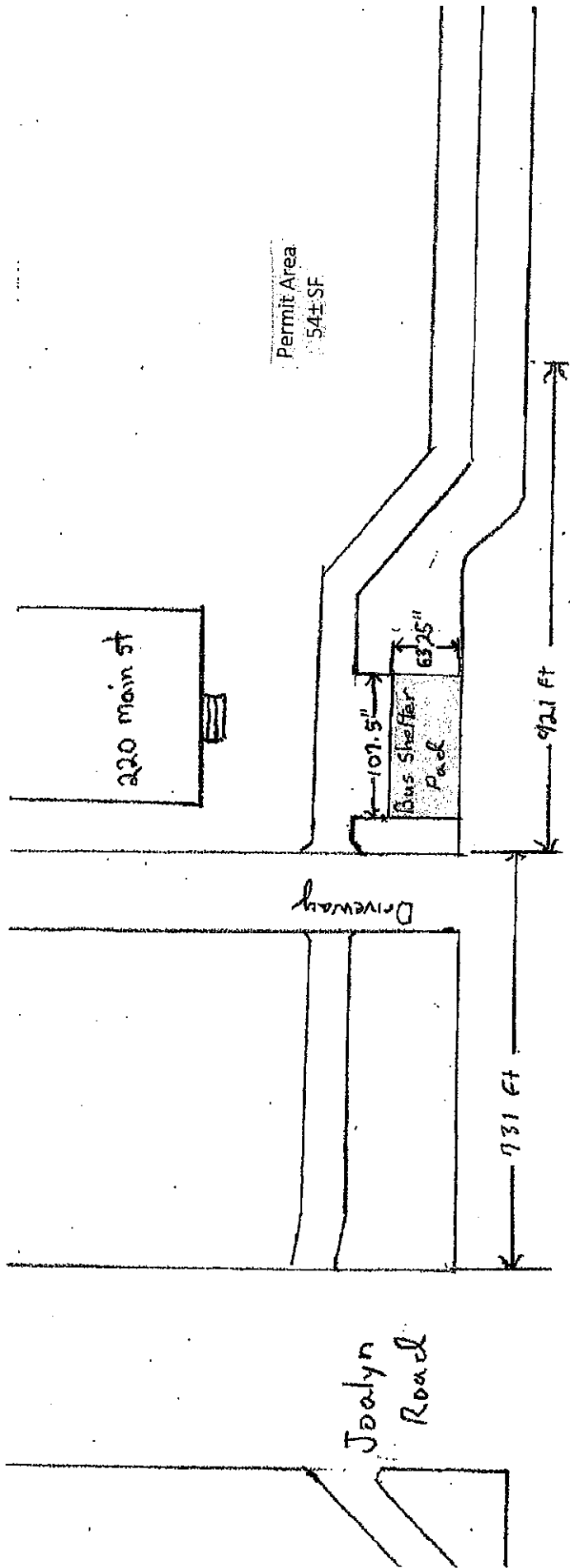
The Permittee, on behalf of himself, his agents, employees, contractors, or subcontractors, assumes all risk in the construction, reconstruction, repair, maintenance (where certain maintenance obligations are the responsibility of the Permittee under the terms of this permit), operation and use of the permit area and shall be solely responsible and answerable in damages for any and all accidents and injuries to person(s) or property, including death, and hereby covenants and agrees to indemnify and hold harmless the State from all claims, suits, actions damages and costs of any nature and description arising out of, or related to, the construction, reconstruction, repair, maintenance (where certain maintenance obligations are the responsibility of the Permittee under the terms of this permit), operation and use of the permit area. The Permittee agrees, upon request to do so, to assume the defense and to defend at his/her own cost and expense any action brought at any time against the State of New York in connection with any such claims, suits, and actions.

27. In the event of cancellation of this Permit by either party, Permittee may be required to remove any/all improvements to the permit area which have been placed there by the Permittee, at his own expense, within thirty (30) days, and restore the area to its pre-permit condition.
28. The State is not liable for expenses incurred by the permittee which may occur as a result of construction, maintenance, or use of the permit area for highway purposes.
29. Permittee agrees and understands that no trees, shrubs, landscaping, or other naturally occurring flora may be removed or disturbed in any fashion without prior approval from the Department of Transportation.
30. Permittee understands that the property included in this agreement is an estimate based on Department of Transportation right-of-way record plans and contract data; surveys, site plans, and other documentation submitted by the Permittee, if any; and public records. It is also understood that unless otherwise indicated, the Department of Transportation has not performed a survey for the purpose of precisely determining the extent of any highway encroachment by the Permittee.

Both parties hereby agree that in the event the permit area is determined to be incorrectly identified or calculated, rental adjustments, credits, or refunds, by either the Department or the Permittee, will not predate the term of this Permit.

31. Permittee agrees that acceptance by the State of any payment that is less than the permit fee indicated in this agreement or any subsequent fee update is a partial payment only, insufficient to satisfy, and is not accepted by the State as satisfaction of, the Permittee's obligation to pay the entire fee, and any interest, penalties, and collection charges or assessments, in full and waives any right to assert otherwise.
32. Permittee agrees and understands that signs are not allowed to be placed on the outside of the bus shelter. Signs may be placed on any inside wall of the bus shelter but can only be viewed from the inside.

33. Permittee agrees to monitor on a continuing basis all advertising space on the bus shelter to determine if any sign or graffiti advertises activities that are illegal under State and Federal law or regulation or which is otherwise objectionable or offensive.
34. Permittee understands that installing or maintaining signs that are mechanical or have animated or moving parts or which contain, include or are illuminated by flashing, intermittent or moving light or lights is prohibited.
35. Permittee understands that the Use and Occupancy Permit will be for \$1.00 Payment Waived as long as any and all advertising income received by the Permittee is used for transportation purposes as described under Title 23 (of the Code of Federal Regulations) eligible projects. The records of any income produced by the use of bus shelters are subject to external audit by the Department of Transportation how and when it deems appropriate.



Main Street - Route 299

