



Planning and Land Use Committee Report

Date: February 27, 2014 **From:** Robert Woodland, Director
Subject: Work without permit – 584 John St. / Bylaw File #35926

Executive Summary

The purpose of this report is to recommend the filing of a notice on title in respect to work that has been done without permit to this single family dwelling, including; the construction of an older addition to the front of the original structure and the enclosure of a deck at the rear of the structure, as well as various plumbing and electrical work. The property owner was directed to make application for the building, plumbing, and/or electrical permit(s) required to correct all deficiencies and return the structure to an approved configuration, however, has thus far failed to comply and is instead actively trying to sell the property despite unrepaired damage from a recent fire.

Recommendation

The Building Inspector recommends:

1. That the Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the property located at 584 John Street, legally described as **Lot 24 Block R Plan 33A Section 4 Victoria E Pt**, indicating that a resolution relating to this property has been made under the authority delegated pursuant to Section 57(3) of the *Community Charter* and the provisions of the *Property Maintenance Delegation Bylaw*, and advise that further information regarding this resolution may be inspected at the Legislative & Regulatory Services Department in Victoria City Hall.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew Dolan'.

Andrew Dolan
Senior Bylaw Officer
Bylaw & Licensing Services

A handwritten signature in blue ink, appearing to read 'Mark Hayden'.

Mark Hayden
Manager
Bylaw & Licensing Services

A handwritten signature in black ink, appearing to read 'Robert Woodland'.

Robert Woodland
Director
Legislative & Regulatory Services

Report accepted and recommended by the City Manager:

Date:

A handwritten signature in black ink, appearing to read 'Mark S. 2013'.

March 5, 2013

List of Attachments

Appendix A – Bylaw enforcement letter to property owner dated October 8, 2013

Appendix B – Two (2) exterior photographs of the subject property taken September 19, 2013

Appendix C – Two (2) interior photographs of the subject property taken September 19, 2013

Appendix D – Map showing location of subject property – VicMap (Internal Version)

Purpose

The purpose of this report is to advise the Committee about the condition of the property at 584 John Street, the enforcement action that has been taken in order to secure voluntary compliance with the *Zoning Regulation Bylaw* and Section 2.2(1) of the *Building Bylaw*, and to recommend to the Committee that under Section 57(3) of the *Community Charter* and the provisions of the *Property Maintenance Delegation Bylaw*, that a notice be filed in the Land Title Office in respect to this property to warn prospective purchasers and lenders of bylaw violations in respect to the work that has been done without permit, including; the construction of an older addition to the front of the original structure and the enclosure of a deck at the rear of the structure, as well as various plumbing and electrical work.

Background

Section 57 of the *Community Charter* allows the City to file notice on title of any property where the Building Inspector:

- a) observes a contravention of a municipal bylaw, provincial building regulation, or another enactment that relates to the construction or safety of buildings or other structures; or
- b) discovers that something was done without a permit or inspection.

Before notice may be filed on title under Sec. 57 of the *Community Charter*, Council must give the Building Inspector and the property owner an opportunity to be heard.

For the purpose of filing notices under Sec. 57(1)(b) of the *Community Charter*, the Manager of Bylaw & Licensing Services is a Building Inspector under the *Building Bylaw*.

Under the provisions of the *Property Maintenance Delegation Bylaw*, Council has delegated the authority to hold hearings and make decisions under Sec. 57 of the *Community Charter* to the Planning & Land Use Standing Committee.

Section 2.2(1) of the *Building Bylaw* states that a person must not:

- a) construct; or
- b) change the occupancy of a building unless the building's owner has obtained a building permit from the Building Inspector.

The *Building Bylaw* defines "occupancy" as the use or intended use of a building or part of a building for the shelter or support of persons, animals or property, according to the occupancy classifications for buildings set out in the *Building Code*.

Issues and Analysis

The property at 584 John St. is located in the Burnside neighbourhood in the M-2, Light Industrial District. The approved use of the property per the approved building plans is single family dwelling (SFD). The property was inspected by a multi-agency team on September 19, 2013 after concerns were raised regarding the number of transient occupants residing at this location as well as a number of suspected health and safety concerns. Upon inspection it was discovered that the structure was not operating as an SFD, but rather, it was operating as a "rooming house" and/or transient accommodation for a large number of persons known to Victoria Police.

The authorized tenant(s) of record who attended the property to facilitate the inspection admitted that while their family pays the monthly rent to the property owner they didn't currently reside on the property. Instead, they stated that they attended the property very infrequently. As a result, it was concluded that the property and/or individual rooms within the structure were being sub-let on a "transient" basis by an unauthorized third party and that no one with any legal authority was in care and control of the property. This had resulted in an increased number of police calls for service and substantial deterioration of the condition of the property.

The property owner was directed to vacate all unpermitted tenancies and/or rental of individual rooms immediately, and make application for the building, plumbing, and/or electrical permit(s) required to return the property to a permitted use and configuration. The property owner did comply and served legal notice to vacate the property. When this was only partially successful, the owner obtained and served an *Order* to vacate issued by the Residential Tenancy Branch. The owner took vacant possession of the property in January 2014, but has since stated his intention to sell the property and/or allow the original family to again take up residency despite unrepaired damage from a recent fire.

Options and Impacts

The filing of a notice on land title is part of a graduated enforcement strategy intended to bring a property into compliance with the applicable bylaws and regulations. A notice on title provides incentive to the property owner to resolve the outstanding issues as it serves to warn lenders or prospective purchasers that work has been done without a permit. Filing a notice on title under Sec. 57 of the *Community Charter* is therefore intended to ensure that a potential purchaser is aware of bylaw violations in respect to the work that has been done without permit, including; the construction of an older addition to the front of the original structure and the enclosure of a deck at the rear of the structure, as well as various plumbing and electrical work. The notice can be easily removed once the property has been brought into compliance.

Official Community Plan Consistency Statement

The enforcement action recommended in this report is being sought in order to ensure that improvements made on the property and the use of the property are in compliance with the provisions of the *Zoning Regulation Bylaw* and the *Building Bylaw* as appropriate. This in turn helps ensure congruency with the OCP.

Financial and Staff Capacity Assessment

Staff have spent approximately 23 hours working on this file in order to obtain compliance. Filing of a Notice on Title (as recommended) will cost the City \$47.30.

Public Engagement and Consultation

Committee consideration of this matter requires a hearing at which time the affected property owner may make a presentation directly to the Committee in respect to the recommendation or a related issue. Other members of the public who have a direct interest in this matter may also provide input to the Committee, at the discretion of the Committee.

Conclusion

Given the owner's ongoing failure to comply and the uncertainty of how effectively this property may be managed in the future, this Officer has determined that the appropriate course of action at this time is to proceed with filing a notice on title. Doing so will ensure that full disclosure is made to a prospective purchaser and/or lender should this property be listed for sale.

Recommendation

The Building Inspector recommends:

1. That the Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the property located at 584 John Street, legally described as **Lot 24 Block R Plan 33A Section 4 Victoria E Pt**, indicating that a resolution relating to this property has been made under the authority delegated pursuant to Section 57(3) of the Community Charter and the provisions of the Property Maintenance Delegation Bylaw, and advise that further information regarding this resolution may be inspected at the Legislative & Regulatory Services Department in Victoria City Hall.

Legislative and
Regulatory
Services
Department

Legislative Services

#1 Centennial Square

Victoria

British Columbia

V8W 1P6

Tel (250) 361-0571

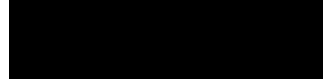
Fax (250) 361-0348

www.victoria.ca



March 6, 2014

Mr. Huan Nguyen



Dear Huan Nguyen:

Re: Work without Permit – 584 John Street

Please be advised that City of Victoria staff is recommending to the Planning and Land Use Committee that the Corporate Administrator file a Notice in the Land Title Office regarding work without permit for 584 John Street. A copy of the report is attached for your records.

A hearing will be held before the Planning and Land Use Committee to grant the applicant an opportunity to address this matter. Therefore, the registered owner is hereby requested to attend the Planning and Land Use Committee meeting on **Thursday, March 20, 2014, at 10:30 a.m.**, in the Council Chambers, at Victoria City Hall, #1 Centennial Square (corner of Douglas and Pandora) to be heard by the Committee.

Further information respecting this matter may be obtained from the offices of the City of Victoria, Legislative & Regulatory Services, #1 Centennial Square, Victoria, BC between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

The agenda for this meeting will be produced on the Monday prior to the meeting and available from this office. Please advise Janice Appleby, Committee Secretary, at (250) 361-0571 local 0598, if you have any written materials you wish added to the agenda, by Thursday, March 13, 2014.

Yours truly,

A handwritten signature in black ink, appearing to read "R. G. Woodland".

Robert G. Woodland
Corporate Administrator

:jda

Enclosure (1)

- c. A. Dolan, Senior Bylaw Officer
M. Hayden, Manager, Bylaw & Licensing Services

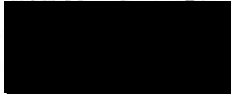


October 8, 2013

COPY

Legislative and
Regulatory Services
Department

Mr. Huan Nguyen



Bylaw and Licensing
Services Division

Re: 584 John St. / Bylaw File #35926

1 Centennial Square
Victoria BC V8W 1P6

Dear Sir,

This letter is a follow-up to the multi-agency safety and compliance inspection that was conducted at 584 John Street on September 19, 2013. This inspection came as a result of a number of earlier Victoria Police calls for service at this address. While onsite Police noted a number of suspected safety and health concerns and reported them to my office. The subsequent inspection and my search of city records have confirmed that this property is in violation of a number of city bylaws, including but not limited to, the *Zoning Regulation Bylaw*, *Building Bylaw*, *Plumbing Bylaw*, and the *Electrical Safety Regulation Bylaw*. These bylaw violations are significant and so they will be explained in detail below:

Zoning Regulation Bylaw

This property is located in the M-2, Light Industrial District and the legal use of the building on this property according to our records is single-family dwelling (SFD). The inspection revealed that the building is not currently operating as a single-family home. Instead, the building appears to be operating as a "rooming house" and/or flop-house for transient individuals; many of whom are street-involved drug addicts and/or criminals known to Police.

In addition, Josephine Sanchez who I was told was your primary "tenant" admitted under questioning that she does not live at the address. She stated that she pays you the monthly rent; however, the tenancies are handled by her brother. When her brother arrived with a key to a locked room he too admitted that he does not regularly live at the address. Instead, it appears that the property and/or rooms within the building are being sub-let and no one is in direct control of the property.

As a result, it has been determined that the current use and/or occupancy of this property is in contravention of the approved use. A person must not use or occupy, or allow or permit another person to use or occupy land or a building in contravention of the approved use as per Sch. B Part 1.2 Sec. 1 of the *Zoning Regulation Bylaw*. This is an offence for which the penalty is a fine of \$200 per day for each day that the offence continues.

To Contact

Telephone: 250.361.0215
E-Mail: bylawenforcement@victoria.ca

Fax: 250.361.0205
Web: www.victoria.ca

Building Bylaw

The inspection revealed a number of safety issues and violations related to work that has been done without permit, including; an older addition to the front of the original house and the expansion and enclosure of a deck at the rear of the building. Completing work and/or changing the occupancy of a building without a building permit are an offence for which the penalty is a fine of \$400 per day as per Sec. 2.2(1) of the *Building Bylaw*. Occupying or permitting the occupancy of a building without an approved occupancy permit is an offence with an additional fine of \$400 per day as per Sec. 2.2(2) of the *Building Bylaw*.

Plumbing Bylaw

The inspection revealed violations related to work that have been done without permit. Plumbing records indicate only one 3 piece washroom and 1 kitchen sink on the main floor and 1 laundry/clothes washer in the basement. All other fixtures outside of the aforementioned fixtures on the main floor have been installed with-out permit and inspection. The inspection of the plumbing system also revealed that most of the existing plumbing piping has been altered and does not comply with the *BC Plumbing Code*. In addition, there has been an illegal connection of drainage system, and failure to install cap-or plug on the abandoned sewer pipe. All these deficiencies will need to be corrected with permit(s) and follow-up inspection. Completing plumbing work without a valid plumbing permit is an offence for which the penalty is a fine of \$400 per day as per Sec. 6(1) of the *Plumbing Bylaw*.

Electrical Safety Regulation Bylaw

The inspection revealed electrical safety issues and violations related to work done without permit. These items include; extensive use of temporary extension cords in place of permanent wiring, missing cover plates, exposed live conductors, the use of unapproved devices, and inappropriate use of electrical fittings. Immediately following the inspection the Electrical Inspector issued an order that hire an Electrician to conduct a safety survey and correct all deficiencies by September 26, 2013. A copy of this order was delivered to your residence by me personally. Completing electrical work without a valid electrical permit is an offence for which the penalty is a fine of \$400 per day as per Sec. 5(1) of the *Electrical Safety Regulation Bylaw*.

Notwithstanding any orders that may be given to you separately by the Electrical Inspector, and/or the Fire Inspector, you are hereby directed to take the following action:

1. Vacate all unpermitted tenancies and/or rental of individual bedrooms immediately.
2. Make application for the building, plumbing, and/or electrical permit(s) required to return this property to its legal use and configuration by November 9, 2013.
3. Complete all the work required to return the property to a legal use, pass all follow-up inspections, and obtain a new occupancy permit by December 9, 2013.

Failure to comply with the above will result in the issuance of fines, the placing of a notice on land title, and/or further legal action.

In conclusion, I must advise you that the condition of this property is very poor and the conditions within are deplorable. In the event that you have not inspected this property recently I have enclosed a number of photographs to help demonstrate the filthy conditions. You must take immediate action to regain control of this property and address the issues outstanding. Should you like to meet to discuss the property further or if you have any questions regarding the direction you have been given please do not hesitate to contact me directly by telephone at 250.361.0578 or by email at adolan@victoria.ca

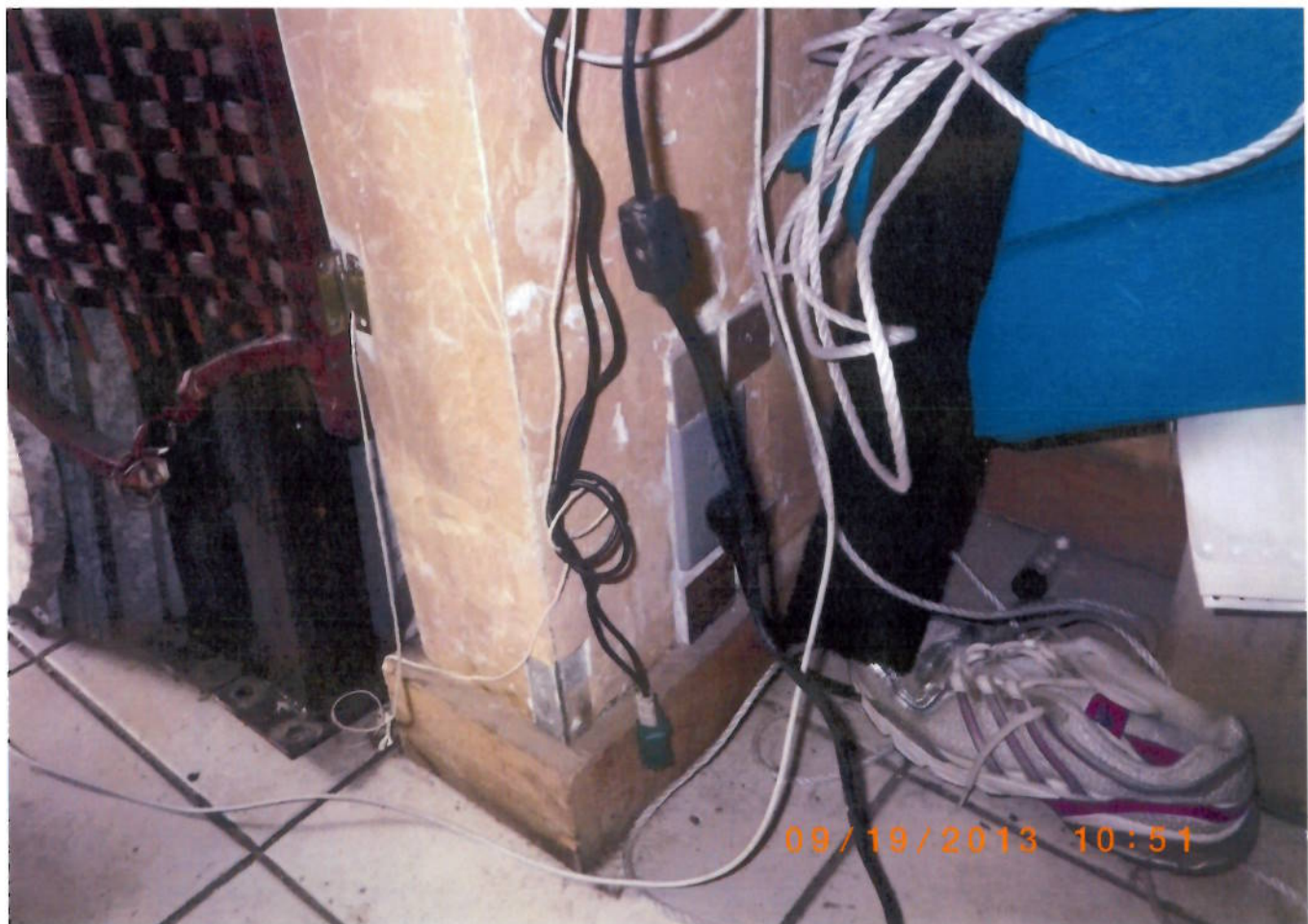
Regards,



Andrew Dolan
Senior Bylaw Officer
Bylaw & Licensing Services
City of Victoria

Cc: Ray Berkeley, Building Inspector
Philip Corby, Electrical Inspector
Roy Kellington, Plumbing Inspector
Chris Royle, Fire Inspector
Les McIntosh, Health Inspector
Cst. Nicky Schnare, Community Resource Officer
Thom Pebernat, Zoning Administrator
Bylaw File #35926







Legend

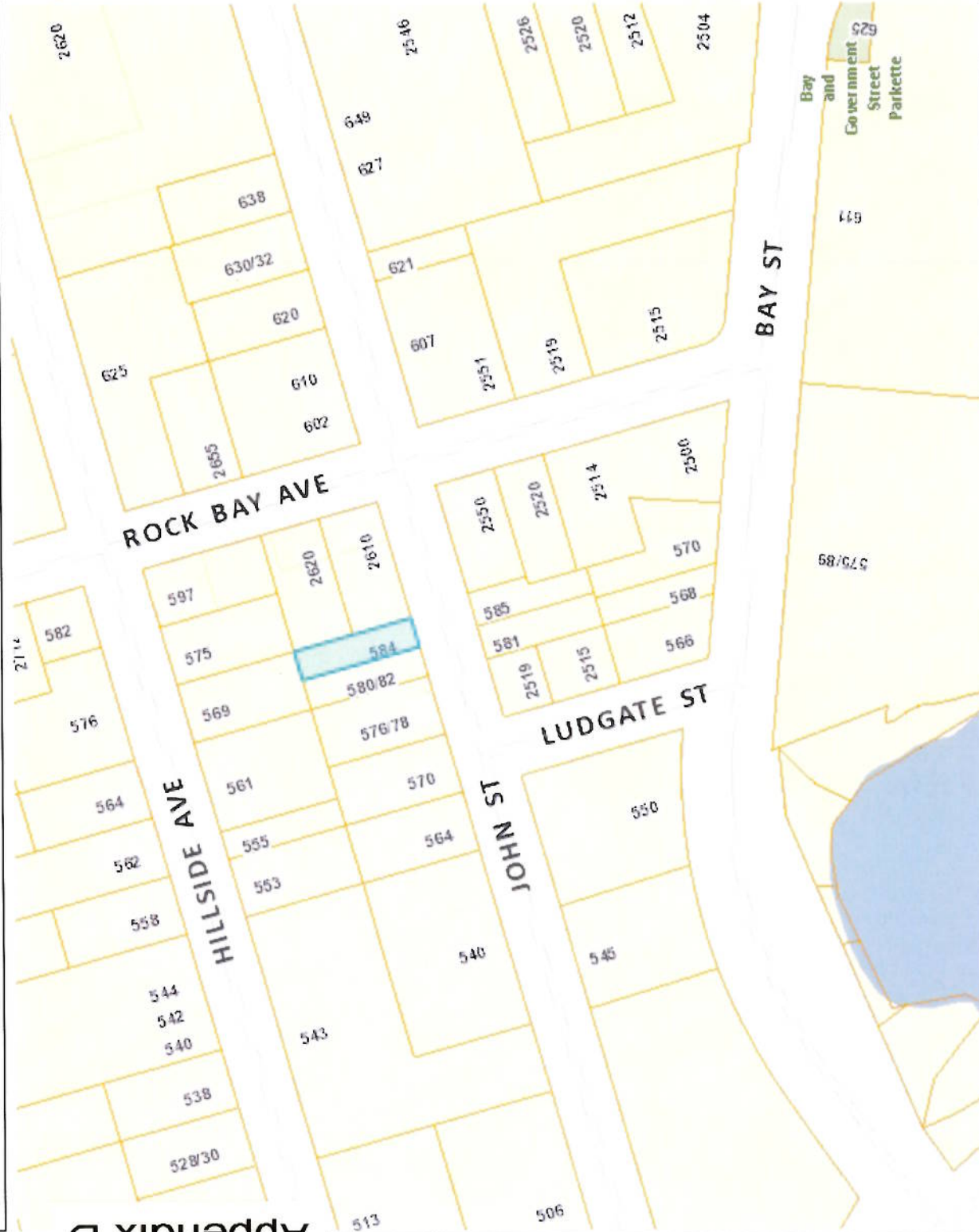
Victoria Parcels

1: 1,745



Notes

584 John St. / Bylaw File #35926



88.7 Meters

44.33

0

88.7



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

NAD_1983_CSRS_UTM_Zone_10N
Public domain: can be freely printed, copied and distributed without permission.

THIS MAP IS NOT TO BE USED FOR NAVIGATION