

Fee-Simple Rowhouses



CASE STUDY | JANUARY 2024



1. Background

Fee-simple rowhouses are a form of housing distinct from strata townhouses as they offer full ownership of both building and land, providing benefits such as no strata fees, freedom from strata rules, and the ability to make property changes with obtaining strata approval (so long as it does not negate the requirements set out in a Party Wall Agreement). Each owner is responsible for their own property instead of a strata, however often design guidelines are established to maintain a common level of quality.

Fee-simple rowhouses are typically priced lower than detached homes of a similar size and age, due to needing less land for each unit with no side yards on shared property lines, promoting denser and more affordable communities. Relative to strata townhouses, fee-simple rowhouse developments can be typically larger and have higher construction costs, resulting in higher purchase prices compared to strata townhomes. Factors such as multiple utility connections, building out municipal rear lanes and additional development fees impact the costs overall.

Policy/program

Fee-Simple Rowhouses

Municipality

City of Surrey (2021 population: 591,700)

Gentle Density Types Involved

The City is permitting a range of gentle density/missing middle housing throughout the community in infill and greenfield development. Example zones include:

- RM-10 (Single family dwellings and duplexes)
- RM-15 (Ground oriented multiple unit residential buildings)
- RM-23 (One dwelling unit on each lot contained within a row housing building and customarily accessory uses)

Perceived downsides of fee-simple rowhomes include having a shared wall compared to a single detached home, potentially impacting noise and privacy (depending on the quality of the shared wall construction). In 2012, the Land Title Act legislation was amended to require Party Wall Agreements to be registered on the property of fee-simple rowhouses,¹ which outline responsibilities and legal ramifications for maintaining all shared components such as walls, roofs and fences. While some potential owners may have concerns with this arrangement, the system appears to be working well to date and the concern is primarily perception and lack of familiarity. There are few examples of older rowhomes within the region that were built prior to 2012 without such agreements.

Hycroft and Hycroft 2 is a series of 95 fee-simple rowhomes in South Surrey's Grandview Heights neighbourhood. The rowhomes were completed in two phases, Hycroft in 2016 and Hycroft 2 in 2018, and were well positioned in the market with all units selling quickly.

During the Hycroft projects, new development in the Grandview Heights area was transitioning from single detached homes to townhomes, aligning with planning changes and demand for more affordable homes. Hycroft, the first fee-simple rowhouse development in Surrey, capitalized on this shift, providing an alternative housing option in an area increasingly dominated by strata townhomes. Other fee-simple rowhouses have emerged in other Surrey neighbourhoods such as Providence (Cloverdale), Newton, and other parts of South Surrey, garnering positive reception from planners and developers who are open to exploring more such projects.

3. Description of policy/ program/project

The Hycroft site is zoned as RM-23 (Multiple Residential 23 Zone), a unique designation in Surrey created specifically for fee-simple rowhomes. While fee-simple rowhomes could be accepted in other zones like RM-10, RM-15, RM-23, and through Comprehensive Development (CD) zoning, the RM-23 zone is most commonly used due to its higher density allowance (57 units per hectare). This makes it more feasible for developers compared to RM-10 and RM-15. Comparatively, strata townhomes are typically zoned RM-30 in Surrey which allows for 75 units per hectare - which is an advantage for builders adding to the prevalence of strata townhomes.

The RM-23 zone is designed to fit the form and character of single detached homes, with zoning bylaws restricting building height to 9.5m [31'] vs 13m [42'-6"] for strata townhomes. It requires significant rear setbacks to accommodate for two off-street parking spaces accessed from a back lane. Unlike lower density single-family zones, RM-23 currently does not permit accessory dwelling units such as basement or lock-off suites.

When rezoning to RM-23 for fee-simple rowhomes, the builder is subject to Community Amenity Contribution (CAC) fees and Development Charge Cost (DCC), which are a cost per unit.² As with any other development, there will be various rezoning, public hearing, development permit and building permit fees; however unlike strata townhomes, there are additional subdivision fees³ (base fee, plus a fee per lot) resulting in a higher overall development cost.

¹ (Government of British Columbia, Housing and Tenancy – Changes to the Land Title Act)

² City of Surrey (Schedule E: Surrey Development Cost-Charge By-Law, No. 20865)

³ City of Surrey (Land Development Application Fee Schedule)

2. Key Players

Municipality

- The City of Surrey planning team was involved in the project. The City planners were keen to promote fee-simple rowhomes.
- The City of Surrey engineering team was involved in the project to ensure lane and civic connections meet standards set out by the City.

Stakeholders

- Streetside / Qualico was the builder and marketer for Hycroft Phase 1 and 2.
- The architecture was by Ciccozzi Architecture.



4. Outcomes

Hycroft is a well liked development that sold out of all its units. Originally planned as strata townhomes, due to site planning constraints the decision was made to pursue fee-simple rowhouses. The City restricted lane access from the major roads in order to enhance a safer pedestrian streetscape. Consequently, lanes were accessed from minor streets, bisecting the property. It resulted in lots suited for rowhousing, which offered better density and yields based on the site layout. The City of Surrey planning department supported the developer's decision to pursue rowhousing.

The rear lanes internal to the project were built by the developer and dedicated to the City, unlike strata properties which have lanes as common property of the strata. They are managed and maintained by the City, therefore they need to meet the City lane guidelines, and are built to a higher engineering standard resulting in higher construction costs, ultimately impacting the selling cost.

Parking was also a significant challenge, as each property was required to provide two parking spaces on their lots per City bylaws. At Hycroft, a garage and non-permeable parking pad was provided. The garages were often 2-car garages shared between two row houses, also subject to a Party Wall Agreement, much like the rowhomes themselves.

While fee-simple rowhouses can physically resemble strata townhomes above the ground, the freehold ownership tenure creates distinctions that impact the feasibility of this housing typology. With each lot subject to subdivision, the separate land ownership requires separate city service and third-party utility provider connections for each property, similar to single family homes, which it added to the higher construction costs compared to strata townhomes. Despite the premium needed to cover higher construction costs, resale valuations have been maintained.



5. Lessons learned

- During Hycroft's construction, there were few fee-simple rowhouse examples, which posed challenges when working with trades. Incorrect assumptions in the early stages of construction resulted in mistakes when running utility service lines in the joist space, crossing property lines. Trades are required to run services off the front into the property and return, with each unit completely self-sufficient. To prevent costly rework in future projects, clear communication with site supervisors and trades on service line routing is essential.
- Coordination of rear lane construction for fee-simple row houses involves compliance with municipal road standards not applicable for strata townhouse typologies. In the case of Hycroft, there was considerable negotiation with the City of Surrey's engineering department related to the storm water draining from the garage roofs into the lane. To reduce the likelihood that flooding would occur in the City maintained lane, the developers needed to ensure a certain level of permeability of the private property parking pad so the garage's rainwater overflow would be able to reabsorb back into the ground in perpetuity. This meant registering a restrictive covenant on the parking pad. Each municipality has varying levels of road design standards, and not all engineering standards align with other urban design objectives such as inclusion of shared green space, pedestrian paths or trees, which might be more feasible to include when part of a common property lane.
- The condition of backyards is a challenge for fee-simple rowhouses especially in suburban markets like Surrey where backyard space is an expectation for market success. Due to the density and parking requirements combined with the presence of fences, the resulting backyards can be small spaces with limited sunlight not suitable for sod grass. However, grass alternatives have faced buyer reluctance.
- In Surrey, there are no current examples of infill fee-simple rowhousing, but areas with existing rear lane networks and larger urban single family detached lots offer potential for future projects, particularly if rezoned to allow higher density. The largest challenge with infill rowhouses is often the land acquisition costs associated with assembling multiple adjacent lots (if needed to have a large enough development site) makes the economic feasibility of fee simple rowhouses unattainable. To justify the land assembly costs, the project would need to be a low-rise condo building to be financially viable. Finding appropriate existing lot types and designs to fit fee-simple rowhouses on existing lots (i.e. without requiring land assembly) will be essential to making this form of development feasible in an infill setting.

6. Next Steps

Despite the success of Hycroft and a handful of other projects, not many fee-simple rowhouses in Surrey were built between 2010 to 2018, and currently, there are few queued developments due to market conditions. To increase uptake, potential changes and steps include:

1. **Secondary Dwellings and Suites:** Allowing secondary dwelling suites, basement suites, or lock-off suites for fee-simple rowhouses could enhance market preference by providing a mortgage helper option.
2. **Modifications to RM-23 for Infill Applications:** Currently tailored for greenfield applications, adapting RM-23 zoning to better suit infill parameters is essential so applications can avoid Comprehensive Development zoning. Modifying the zone parameters, such as lot depth and setbacks, is essential for infill projects to avoid infill projects getting caught up in public hearings. Additionally, with zone modifications it could be possible for larger single family lots to avoid assembly or consolidation, helping with feasibility of infill rowhouses. An example; rear lane corner lots within urban OCP designated areas with lot widths around 15.9m wide and could fit 3-unit rowhouses with reduced side setbacks. Furthermore, removing rear setbacks intended for parking could reduce the minimum depths required to subdivide the single lot for rowhomes, especially if transit is accessible. There should be further exploration to review impacts to livability of units and market viability.



3. **Form and Character Development Permit:** Reconsidering the requirement for a Form and Character Development Permit for low-density multi-family projects, including fee-simple rowhouses, could streamline the approval process.
4. **As of Right Zoning:** Adopting an ‘as of right’ zoning approach, aligning with provincial legislation direction, would allow fee-simple rowhouses in currently designated single-family residential zones (RF), potentially uncovering a significant portion of Surrey land area for rowhouse use. As noted earlier, this could also open up feasible infill opportunities if the lots are large enough to avoid the need for significant land assembly.
5. **Servicing:** Exploring legal changes to allow services to run across units through easements and permanent access rights could simplify fee simple rowhouse construction. Changes to the legal verbiage would need to provide clauses similar to the Strata Property Act, which grants allowances for access to the home to stop emergencies that would impact neighbour’s property with a defined timeframe for notice (e.g. in the case of a gas leak). However, market acceptance remains uncertain as it changes the definition of what it means to own a freehold property by removing the owner’s full autonomy over their property, a benefit of freehold (fee-simple) rowhouses over strata.
6. **Lot Strata:** Investigating hybrid solutions similar to Ontario’s Parcel of Tied Land⁴ could address challenges with municipal rear lanes and driveways. This approach combines fee simple ownership of individual lots with collective ownership of common areas, potentially reducing strata fees, property lot and building restrictions compared to traditional strata townhouses. Existing examples in British Columbia, such as Bare Lot Strata⁵ and Cluster Units, may serve as a model for modification to include fee-simple rowhomes. It may also require changes to the Local Government Act and Land Title Act to allow properties to front private property and roads.

⁴ (Alloway)

⁵ (Normac)



7. Resources

- | Alloway, Baron for Catalyst Real Estate Brokerage Ltd. “[What Is a Parcel of Tied Land \(POTL\)?](#)”, 28 Aug 2021.
- | Burgess, Bob, and Domain Consulting Ltd. “Freehold Tenure Rowhouse Discussion Paper: An Examination of Development Potential and Constraints in the Greater Vancouver Region” – Discussed in the “[Local Government Guide for Improving Market Housing Affordability](#).”
- | Greater Vancouver Regional District Technical Advisory Committee, July 2003.
- | City of Surrey. [Land Development Application Fee Schedule](#).
 - » [Schedule E: Surrey Development Cost-Charge By-Law, No. 20865, 2023](#).
 - » [Surrey Zoning By-Law 12000](#).
- | City of Vancouver. [RM-7 and RM-7N Guidelines](#).
- | Geller, Michael. “[Why Fee-Simple Row Houses Can Be a Good Option Vancouver Sun January 14, 2022](#).” - Michael Geller’s Blog.
- | Government of British Columbia, Housing and Tenancy. “[Different Kinds of Stratas - Province of British Columbia](#).”
- | Government of British Columbia, Housing and Tenancy. [Changes to the Land Title Act Hope to Stimulate the Construction of Free-Hold Rowhouses](#).
- | Normac. “[All about Bare Land Stratas](#)”.
- | Pablo, Carlito. “[Why Vancouver Remains Resistant to Fee Simple Rowhouses](#).” - The Georgia Straight.
- | Real Estate Board of Greater Vancouver. “[Fee Simple Row Houses Offer Gentle, More Affordable Density](#).”