

NOTICE OF LAND DEVELOPMENT APPLICATION

APPLICATION FOR REZONING, PERMANENT DEPARTURES AND PERMISSIONS IN TERMS OF THE ZONING SCHEME: ERF 2455 & ERF 2456, STELLENBOSCH

The following land use application in terms of the Stellenbosch Land Use Planning Bylaw refers:

Application Property Address: Cnr of Joubert Street & Merriman Street, Stellenbosch

Application Property Number: 2455 & 2456

Applicant: Dormell Properties 433 (Pty) Ltd, c/o MF Smuts, Tel +27 (0)21 887 7678; boets@smutsdekock.co.za

Owner: Dormell Properties 433 (Pty) Ltd, c/o MF Smuts, Tel +27 (0)21 887 7678; boets@smutsdekock.co.za

Application Reference: LU/17296 (TP760/2024)

Description of land development proposal:

Erf 2455

Application is made in terms of Section 15(2) of the Stellenbosch Municipality By-law on Municipal Land Use Planning 2023 on Erf 2455, Stellenbosch for the following:

1. Application in terms of Section 15(2)(a) of the By-law for the rezoning of the property from Conventional Residential Zone to Multi-Unit Residential Zone to permit a 10(ten) bedroom commune/hostel to be operated from the existing dwellings/buildings.
2. Application in terms of Section 15(2)(g) of the By-law for permission required in terms of the Zoning Scheme By-law for permission required in accordance with section 78(2) of the said By-law to permit a property which is smaller than 1000m² to be used for Multi-Unit Residential Zone purposes.
3. Application in terms of Section 15(2)(b) of the By-law for the following permanent departures from the parameters applicable to the Multi-Unit Residential Zone to accommodate the existing dwellings/buildings:
 - a. Relaxation of common building line (adjacent to Erf 2454) from 4.6m (ground floor) and 4.5m (first floor) to 1.5m;
 - b. Relaxation of common building line (adjacent to Erf 2456) from 4.6m (ground floor) to 4m and 4.5m (first floor) to 4.2m;
 - c. Relaxation of street building line (Joubert Street) from 4.5m (ground floor) to 2.5m and 4.5m (first floor) to 1.5m;
 - d. Including the under provision of parking to permit 9 bays in lieu of 10 bays.

Erf 2456

Application is made in terms of Section 15(2) of the Stellenbosch Municipality By-law on Municipal Land Use Planning 2023 of Erf 2456, Stellenbosch for the following:

1. Application in terms of Section 15(2)(a) of the By-law for the rezoning of the property from Conventional Residential Zone to Multi-Unit Residential Zone to permit 10 (ten) bedroom commune/hostel to be operated from the existing dwellings/buildings.
2. Application in terms of Section 15(2)(g) of the By-law for permission required in terms of the Zoning Scheme By-law for permission required in accordance with section 78(2) of

the said By-law to permit a property which is smaller than 1000m² to be used for Multi-Unit Residential Zone purposes.

3. Application in terms of Section 15(2)(b) of the By-law for the following permanent departures from the parameters applicable to the Multi-Unit Residential Zone to accommodate the existing dwellings/buildings:
 - a. Relaxation of common building line (adjacent to Erf 2455) from 4.6m (ground floor) and 4.5m (first floor) to 0m;
 - b. Relaxation of common building line (adjacent to Erf 2457) from 4.6m (ground floor) to 1.1m and 4.5m (first floor) to 2.2m;
 - c. Relaxation of street building line (Joubert Street) from 4.5m (ground floor) to 0m and 4.5m (first floor) to 1.1m;
 - d. Relaxation of street building line (Merriman Street) from 4.5m (ground and first floor) to 4.1m;
 - e. Including the under provision of parking to permit 4 bays in lieu of 10 bays.

Notice is hereby given in terms of the provisions of the said Bylaw that the above-mentioned application has been submitted to the Stellenbosch Municipality for consideration. The application is available for inspection on the Planning Portal of the Stellenbosch Municipal Website for the duration of the public participation process at the following address: <https://www.stellenbosch.gov.za/planning/documents/planning-notices/land-use-applications-advertisements>. If the website or documents cannot be accessed, an electronic copy of the application must be requested from the Applicant.

You are hereby invited to submit comments and / or objections on the application in terms of Section 50 of the said bylaw. Written comment, which must include the reference to the application, the name, contact details and physical address of the person to submit the comments, the reasons for the comments, and the interest of the person who submits the comment in the application, may be submitted to the Applicant by electronic mail as follows: Dormell Properties 433 (Pty) Ltd; email: boets@smutsdekock.co.za. By lodging an objection, comment or representation, the person doing so acknowledges that information may be made available to the public and to the applicant.

The comments must be submitted within 30 days from the date of this notice to be received on or before the closing date of **21 October 2024**.

The Municipality, in terms of Section 50(5) of the said Bylaw, may refuse to accept any comments/ objection received after the closing date.

For any enquiries on the Application or the above requirements, or if you are unable to write and /or submit your comments as provided for, you may contact the Applicant for assistance at the e-mail address provided or telephonically at +27 (0)21 887 7678 or 083 457 2066 during normal office hours.

Yours faithfully

MF Smuts
Dormell Properties 433 (Pty) Ltd

> MEASUREMENTS ARE SUBJECT TO FINAL LAND SURVEYORS DOCUMENTATION ON COMPLETION.
> THIS DRAWING SHOWS A VISUAL REPRESENTATION OF WHAT IS PROPOSED. MINOR ADJUSTMENTS MIGHT BE REQUIRED IN THE FINAL TECHNICAL DOCUMENTATION.
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15 July 2024

MOTIVATIONAL REPORT
FOR
APPLICATION IN TERMS OF THE LAND USING BY-LAW SECTION 15
& MUNICIPAL ZONING SCHEME BY-LAW



1. PROPERTIES

The properties are erven 2455 & 2456 and situated on the corner of Merriman Ave & Joubert Street, Stellenbosch as per locality plan attached. The properties are notarial tied (See attorneys letter attached regarding status of notarial tie of erven).

2. BACKGROUND

After a long interaction and deliberations over many years with both Heritage Western Cape and the Stellenbosch Municipality building plan approval for the new infill house on erf 2455 was obtained on 12 October 2022. Approvals for the restoration of the 2 old houses on erf 2456 were received on 12 October 2022 (HWC approval) and 21 April 2023 (Municipal approval). Building construction started in May 2023 and building work was completed in December 2023.

Applications for a second dwelling on erf 2455 and commune on both erven in June 2023 were not favored and this new application as per item 3 below was regarded as more appropriate.

3. APPLICATION

- 3.1.** 15(2)(a) Application for rezoning of land to Multi-Unit Residential Zone to permit a commune to be operated from the existing dwellings/buildings located on the properties,
- 3.2.** 15(2)(g) Application for permission required in terms of the zoning scheme [permission required in accordance with section 78(2) of the zoning scheme to permit properties smaller than 1000m² to be used for Multi-Unit Residential Zone purposes],
- 3.3.** 15(2)(b) Application for permanent departure from the development parameters of the zoning scheme (relaxation of the Multi-Unit Residential Zone building lines for existing buildings where applicable),
- 3.4.** 15(2)(b) Application for permanent departure from the development parameters of the zoning scheme (under-provision of parking).

4. MOTIVATION

4.1. Historical Background

The above erven, now notarial tied, have since the early 1900's, when the 2 houses were built, always been owned and enjoyed by the same owners i.e. not separate owners for each erf. Outbuildings were added over a period of time. Also, both erven shared the same street access and municipal service connections.

4.2. Heritage Approval

The approval of the "infill" house on erf 2455 and facing Joubert Street by both the Provincial and Municipal Heritage agencies were only granted after in depth urban planning inputs from Smuts & de Kock Architects. This house was designed to follow the rhythm, scale, height and finishes of the balance of the eastern facing facades of the other houses in Joubert Street.

Approval of the 2 early 19th century houses on erf 2456 were given by the Provincial Heritage authorities on the basis the retention of its external shape, finishes, windows and other features. Internal alterations were done mainly in order to accommodate bathrooms and functional kitchens. Two loft rooms with external stairs accesses were incorporated without changes to the roof proportions. Some later flat roof additions were removed and the outbuildings on erf 2455 were demolished.

4.3. First Application (2023)

The use of the properties for student accommodation was workshopped during 2021 & 2022 with the Municipality's Town Planning Department in pre-consultation meetings who supported this principle. It was agreed that an application process i.e. to apply for a second dwelling on erf 2455 and to make formal applications for communes on both erven be parallel to the construction process. Applications were submitted for the above i.e. a second dwelling for the new house on erf 2455 and a consent use for the two houses on erf 2455 and the 2 historic houses on erf 2456 on 21 April 2023 and 28 June 2023.

4.4. Second Application (2024)

The Municipality responded on 15 May 2024 by requesting a revised application as per item 3 above as being more appropriate. This application is currently being considered/processed.

4.5. Motivational Aspects

The buildings on erven 2455 & 2456 over many years were used as student accommodation in both old houses as well as the outbuildings. It was decided to continue with the above use for both the restored and new building, also a logical use based on the location right across the street of the University of Stellenbosch's main campus. (Plan approvals were given based on residential units). The municipal Town Planning department did not approve neither the communes nor the 2nd dwelling units, but advised the rezoning of the properties to a Multi-Unit Residential Zone as being more appropriate. All neighbouring properties are owned by the University of Stellenbosch and most of them accommodate students and operates as student communes. There are no more single-family residences in Joubert Street and to our knowledge neither in the adjoining street blocks and broader neighbourhood.

The purpose of Multi-Residential Zone as per item 77(d) of the 2019 Municipal Zone Scheme states the following:

"The purpose of this zone is to make provision for:

(d) other multi-unit high or density residential accommodation such as student, retirement and community residential buildings and limited tourism accommodation."

The development as built, perfectly suits the 'commune' definition with the opportunity of 4 to 5 students living together as a social unit sharing a kitchen, dining, TV and lounge area. The one exception to the 6-unit commune configuration on the upper floor of the infill house on erf 2455. The "loft" roof space units in the 2 old houses can either function as single spaces operating on its own or as part of the commune family sharing kitchen & lounge areas below.

5. ACCESS



Access to erf 2456 from Merriman Avenue was not favoured by the municipal traffic engineers due to the high volume of traffic making access both dangerous and difficult. For this reason a single vehicular access, as per the attached site plan and, from Joubert Street, was favoured by the municipal engineers and all building plans were approved as such.

6. PARKING

There is a total of 20 'commune' rooms, thus generating the requirement of 20 parking bays based on the "off-street parking requirements" table i.e. item 33 of the 2019 Zoning Scheme By-Law.

Dwg. no. 300 Shows 16 on-site parking bays and 4 areas for bicycles (6 cycle racks each) and one are for 4 motorcycles. The total parking requirement of 20 is thus met. From a status quo point of view the present inhabitants do not require any more parking bays. We are of the opinion that the closeness of the campus as well as the US "hop on hop off" student bus stops right in front of erf 2455 is positively influencing this. We did observe bicycles on the site.

We consulted with ITS Traffic Engineers to discuss the necessity of a traffic study. They (quite blatantly) observed that, in the light of the strict policy of as little as possible traffic in the CBD and surrounding areas and for the purpose of supporting public transport they recommended without hesitation that they would support rather fewer than more parking.



The following should also be noted:

- 6.1. The building work has been completed in December 2023 after building plans have been approved.
- 6.2. The number of habitable rooms, whether notarial tied properties is being used for whatever zoning stayed the same i.e. 20 habitable rooms.
- 6.3. Item 33(5) of the Municipal Zoning Schem By-Law states that "The Municipality may impose a condition which requires payment of a levy in lieu of the shortfall of the number of bays, on the basis that public parking or roads may be utilized for parking of vehicles connected to the activity." On the basis of the above, the levy if due, should be used for transporting students to their classes (or other formal student activities). In this regard the status quo is that student transport vehicles are based right across erf 2455 in Joubert Street with mini-buses leaving every 15 minutes. These buses are operated and paid for by the University and there is no tool to fund student transport. Lastly, it has been brought to our attention that the "traffic" fund into which "levies" were supposed to be deposited for "traffic" matters, had not been operational for more than 15 years. A developer is not obliged to support a fund where the fund is used for general municipal expenses other than traffic & parking items.

6.4. The status quo for the 2 historic houses is that the number of parking bays was zero on erf 2456 since the building was constructed in the early 20th century i.e. 1923. This was due to no access was provided via Merriman Avenue. At this point 4 bays are provided via the neighboring erf i.e. erf 2455. Erven 2455 & 2456 now being notarial tied giving formal access to erf 2456, 4 parking bays are provided. Based on the status quo for a long period of time and the use having stayed the same for more than 50 years i.e. accommodating students, Act no. 68 of 1969 relating to prescriptive laws stating that a right i.e. the status quo being the use for a minimum of 30 years come into play.

7. SECTIONAL TITLES

The land surveyor's sectional title application has been approved by the Surveyor-General and the registration of sections is in progress. The land surveyor's sectional title documentation shows the legal title areas, communal areas, as well as a small portion of the historical stoep in the Joubert Street road reserve, this area having been kept as per the Heritage Western Cape decision and approval and also having been approved by the Municipality (Plan approval no. 1152). "Rights of ways" do not need to be registered for access or any other purpose in that what is individually owned does not prohibit access to any communal property.

The body corporate to be formed under sectional title regulations, taking care of all aspects of this project and is the legal entity receiving all municipal accounts and communications. The attorneys are busy with the legal process to notarial tie the two properties, a not-negotiable requirement in order to open a sectional title register.

8. SERVICES

During the construction process new electrical and water supply services have been provided in the second half of 2023 serving the building on the 2 erven, currently being connected by way of a notarial tie. The sewer connection is also serving both notarial tied erven. The water connection is a 40mm connection and the electrical supply is a 80 Amp pre-paid connection.

All municipal role players i.e. electrical, traffic, financial and civil services departments have been consulted and approvals were obtained before services were connected.

9. TOWN PLANNING PARAMETERS

9.1. Limitation of Land Size

Item 78(2) of the 2019 Zoning Scheme By-Law limits the use of rezoning to a Multi-Residential Zone. The lounges, TV, communal cooking areas as well as the open (but under cover) stoeps of approximately 83m² provides ample relaxation areas to enable socializing in the 4 communes. For the above reasons the 1 000m² limitation does not in this instance prohibit a pleasant living environment.



9.2. Building Lines

Dwg. no. 400 shows the building lines normally required in the requested Multi-Unit Residential Zone. As mentioned above, the clever use of external spaces for recreational spaces is ample. The placement of the new building on erf 2455 and the combined opened spaces is pleasant and user friendly. The prescribed building lines would not have improved the positive and spatial experiences and provides opportunity for interaction a “commune” spirit. We trust that this motivation for building line relaxation supports good reasoning for the support of the building line relaxation application.



9.3. Coverage

The coverage in the proposed zone is 43%, well below the maximum allowance of 50%.

9.4. Maximum Allowable Height

The height restriction in this zone is 3 storeys. The buildings on notarial tied erven 2455 & 2456 have a maximum height of 2 storeys.



9.5. Floor Area

The floor area is 66% and the allowable floor area is 75%, well below the prescribed limitation.

9.6. Summary

Except for the building lines, which were dictated by the heritage and urban planning considerations, all town planning parameters were met.

Handwritten signature of W.F. Smuts.

Boets (MF) Smuts

SMUTS & DE KOCK (PTY.) LTD.

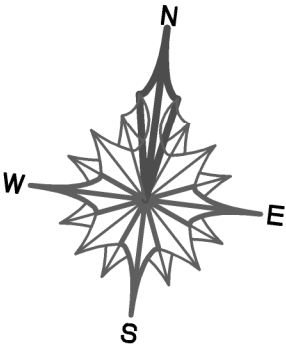
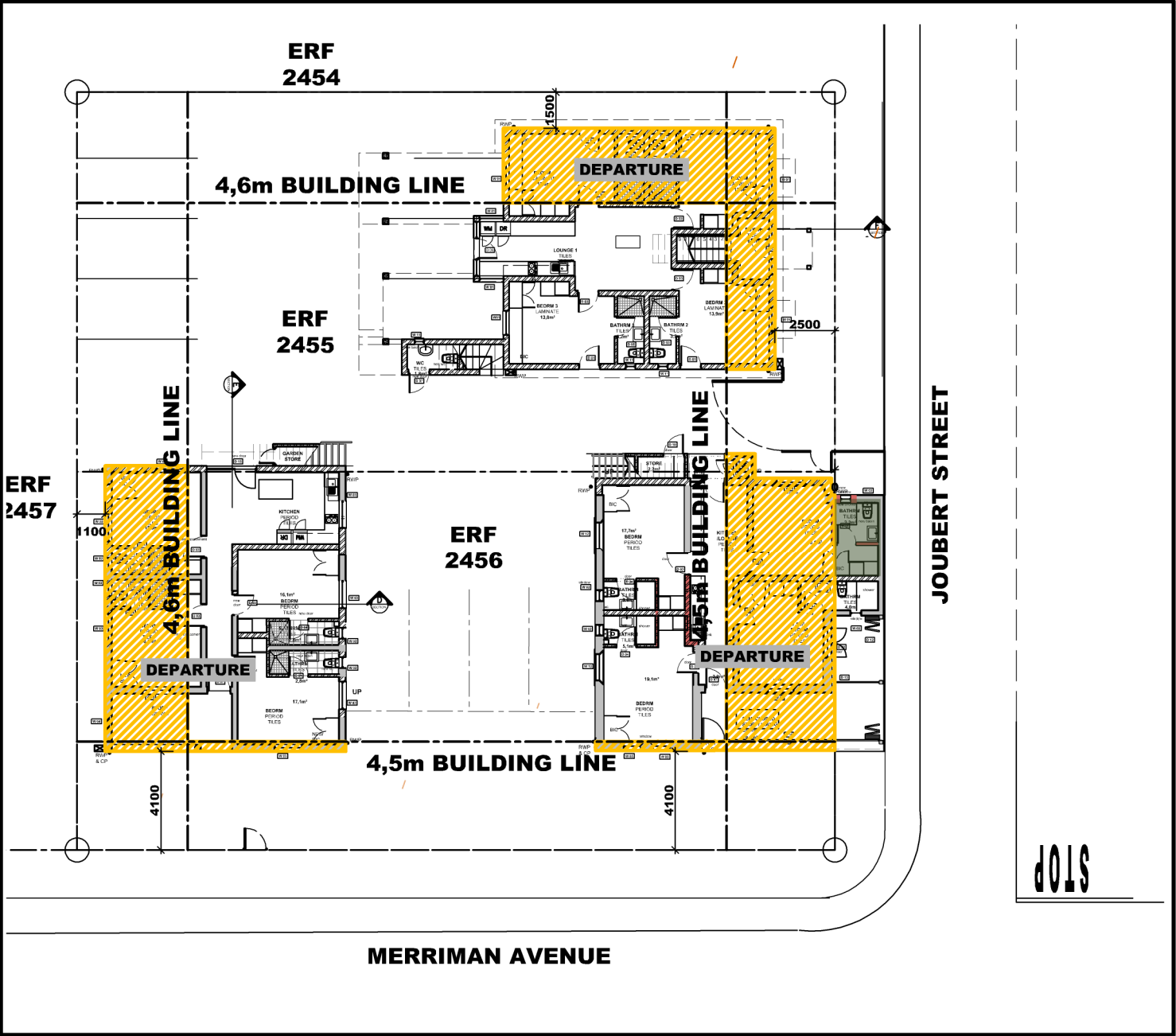
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BUILDING LINE ENCROACHMENT (ERF 2456)

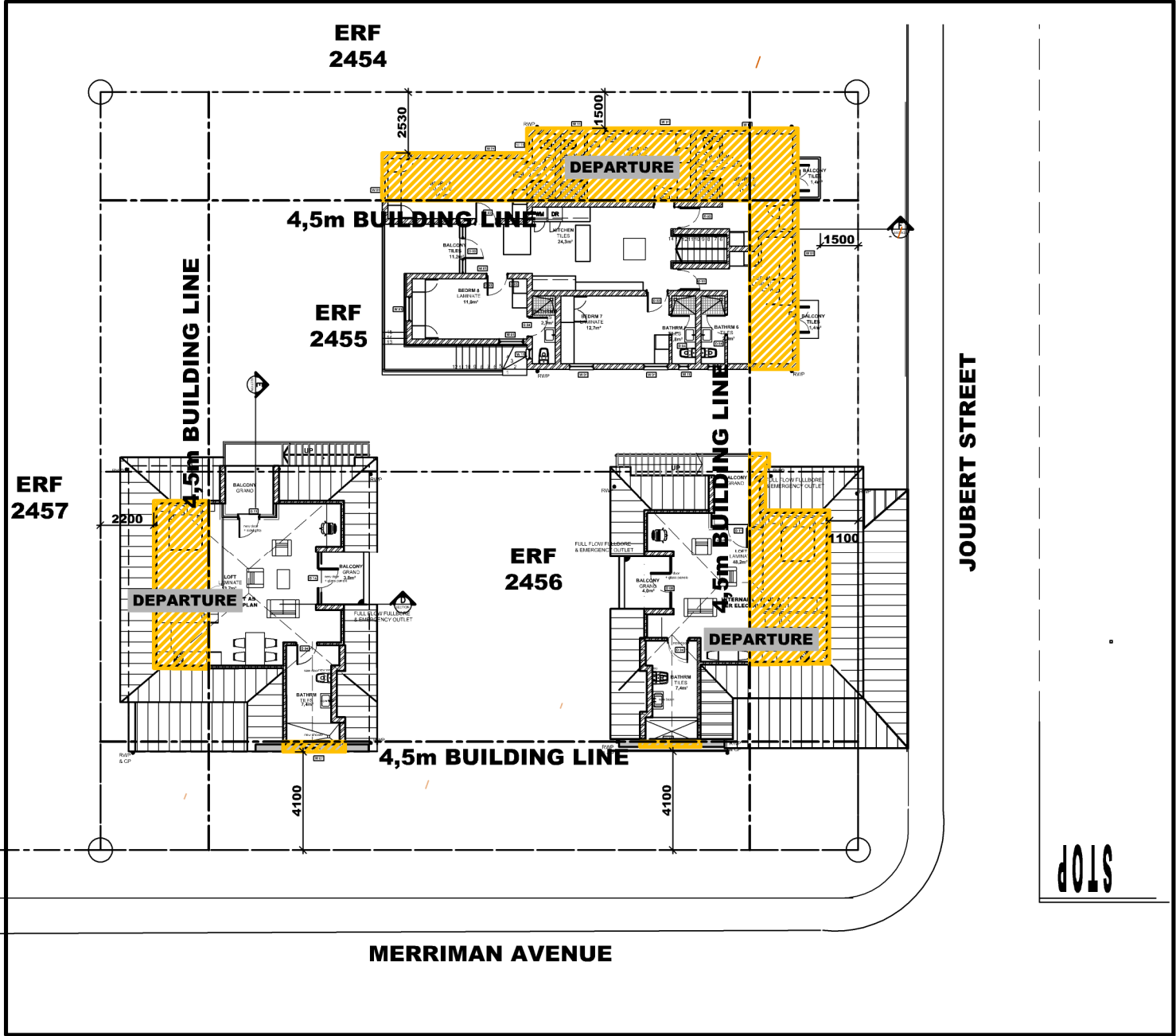
BOUNDARY	GROUND		FIRST	
	FROM	TO	FROM	TO
STREET MERRIMAN	4,5m	0m	4,5m	1,1m
STREET JOUBERT	4,5m	4,1m	4,5m	4,1m
COMMON (2457)	4,6m	1,1m	4,6m	2,2m

BUILDING LINE ENCROACHMENT (ERF 2455)

BOUNDARY	GROUND		FIRST	
	FROM	TO	FROM	TO
STREET JOUBERT	4,5m	2,5m	4,5m	1,5m
COMMON (2454)	4,6m	1,5m	4,5m	1,5m
COMMON (2457)	4,6m	N/A	4,5m	N/A



GROUND FLOOR PLAN



FIRST FLOOR PLAN