



## ZONING AMENDMENT STAFF REPORT

Rezoning Case Number: **ZCR1070**

Applicant: **Benny Daniel Torres, Jonathan Rafael Torres**

Current Zoning: CB          Proposed Zoning: RA

Tax Parcel ID Number(s): 5915-00 93-8687

### Nature of the Request

**Overview:** The proposal is to reclassify a 0.71-acre tract for residential purposes. The property is a corner tract at an intersection of secondary roads, and is improved with parking lot and a small commercial structure, now in nonconforming use as a residence (notice of zoning violation pending as of report date 10/18/2010).

General Use Rezoning

Conditional Rezoning

If the nature of the request is a Conditional Rezoning, the following uses shall be permitted in this proposed conditional zoning district:

n/a

The following development conditions have been offered by the applicant:

n/a

### Property Specifics

**Property Owner:** Benny Daniel Torres and Jonathan Rafael Torres

**Property Location:** Northwest corner of Siloam Road and Pratt Road

**Township:** Eldora

**Acreage:** 0.71

**Deed Book:** 1145

**Page:** 305

**Zoning History of Parcel(s):** Has been zoned CB since February 2005. Original zoning was RA, from the county's initial zoning 09/17/2001. CB zoning was adopted despite staff and Planning Board recommendations to deny, in case # ZCR272, 02/21/2005.

**Character of the Area**

**Overview:** Area is rural in character with farmland, open space, woods, low-to-medium-density single-family residential use, scattered nonresidential uses. RB zoning is located 0.44 mile north on Siloam Road, and CB zoning is located about one mile south at the Level Cross intersection of Siloam Road and NC Highway 268. RR zoning exists 556 feet northwest on Pratt Road, although the RR land has not been subdivided or developed.

**Existing Land Use(s) on the Property:** A small structure with commercial garage addition/ equipment is centrally located on the property. Applicant Daniel Torres states as of the application date, 10/07/2010, that the structure is now in use as a residence, in violation of CB use regulations. Original use was as a restaurant in the mid 1990's.

**Surrounding Land Use(s) and Zoning:**

| Location | Land Use                  | Zoning |
|----------|---------------------------|--------|
| North    | Residential, agricultural | RA     |
| South    | Residential, agricultural | RA     |
| East     | Residential, agricultural | RA     |
| West     | Residential, agricultural | RA, RR |

**Historic Properties:** None in the immediate area.

**Infrastructure and Community Facilities**

**Public Schools:**

| District           | Enrollment | Existing Capacity |
|--------------------|------------|-------------------|
| Copeland           | 535        | 504               |
| Central Middle     | 618        | 566               |
| Surry Central High | 784        | 840               |

**Fire District:** CC Camp

**Water and Sewer Services:**

- Private Well     
  Private Septic     
  Public Water     
  Public Sewer

**Public Water/Sewer Provider:** None

**Public Water/Sewer Planning:** According to current plans public water and sewer may be extended to this area within the next 20 years. Public water extension probably more likely than sewer.

**Transportation:**

**Property Access:** Property is accessed by Siloam Road and by Pratt Road

**ADT:** 2800 trips per day      **Year:** 2005

**Proposed Improvements:** None

**Projected Traffic Generation:** None

**Thoroughfare Plan Consistency:** Siloam Rd and Pratt Rd are well-travelled secondary roads. Location at this intersection along with present state of development and access infrastructure on and around the property are conducive to continued commercial use.

### Environmental Assessment

**Topography:** Rolling to level

**Flood Hazard:** n/a

**Streams:** Yes      **Perennial:** Yes

**Wetlands:** Unknown

**Watershed:** None

**Watershed Development Density:** n/a

### Land Use Planning Consistency

**Applicable Land Use Plan(s):** Land Use Plan 2015

**Future Land Use Classification(s):** Rural Area

**Consistency Principle(s):**

Land Use Plan 2015

5.3.3 Encourage economic and commercial development that does not detract from the rural environment.

5.3.12 Maintain a positive identity for the County and its individual communities.

5.4.5.12 Businesses should be served by roads and streets of a capacity sufficient for safe traffic flow.

**Meeting Summaries**

Applicant Daniel Torres discussed rezoning on October 6, 2010 and met with staff on October 7, 2010. Present use, and history and recent development of the property were discussed.

**Recommendation**

Staff recommends denial. Original use was as a restaurant, and business use was established before zoning. CB zoning was publicly considered and adopted in 2005, and the site was then extensively paved and developed according to the business zoning. The lot is small, narrow, triangular and more than two-thirds of its perimeter is fronted by well-traveled secondary roads. Legitimate residential development of a reasonable quality would be difficult and expensive, due to conditions on and around the land.

Ordinance criteria for planning board review (Article 4, Section 3):

~Will the proposal place all property similarly situated in the area in the same category, or in appropriate complementary categories? [Staff Response: Yes]

~Is there convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group? [Staff Response: No]

~Is there convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change? (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state that they intend to make of the property involved.) [Staff Response: No]

~Is there convincing demonstration that the character of the neighborhood will not be materially or adversely affected by any use permitted in the proposed change? [Staff Response: No]

~Is the proposal in accord with the Land Use Plan and sound planning principles? [Staff Response: No]

**Attachment(s)**

Map, pictures, use list