

MEMO

To: Planning Commission, Mayor Santini & City Council

From: Randy Mannino and David Hardegree

Date: October 3, 2023

Re: *Text Amendment T23-04. Add new Technology District (T)*

Switch LTD, applicant, is proposing a new Technology zoning district to allow the development of data warehousing or storage facilities. The proposed district restricts uses except for those that are or would support data centers.

The amendment also adds the Technology District to the appropriate zoning sections of the ordinance that address Communication Towers, Sec. 4.29.

This text amendment is accompanied by zoning case Z23-03 that seeks to rezone approx. 1,946 acres remaining to be developed in the Carter Grove Planned Development.

JENKINS, BOWEN & WALKER, P.C.

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August 17, 2023

Mr. David Hardegree
City Planner
City of Cartersville, Georgia

Re: Switch, LTD text amendment and rezoning application
Letter of Intent

Greetings David,

I am pleased to submit this Letter of Intent in association with the proposed text amendment and rezoning application submitted contemporaneously on behalf of Switch, LTD. Switch is the recognized world leader in data center design, development and operation. We are pleased to propose the development of Switch's newest data center in Cartersville.

The site of the proposed development is the undeveloped back of the Carter Grove Planned Development.¹ I have submitted a current ALTA boundary survey showing the entire boundaries of this property. The current condition of that property is undeveloped and subject to a planned development zoning and development agreement with the City of Cartersville. We propose the termination of the development agreement as to the subject property and rezoning to a new Technology zoning classification, which is addressed in the text amendment application.

If approved, the new Technology district restrictions will allow the development of this property in a way that has far less impact than the current planned development (which contemplates thousands of homes and the traffic that would be associated with it). At the same time, the proposed use does not have the traffic volume of retail operations, or the truck traffic associated with industrial manufacturing and logistics users. It will also bring best in class telecommunications facilities to our community, and resolve the broadband desert that many experience on the south side of Cartersville.

¹ Note that this application does not include the approximately 45 +/- acres at the entrance of Carter Grove at the corner of Old Alabama Road and Carter Grove Blvd. Switch has no interest in that property and does not propose any change to its zoning status.

August 17, 2023

Page 2 of 2

I am including a site plan, which shows both the planned phase 1 of the development, as well as future development areas as buildout progresses. We are of course happy to discuss this with you in greater detail at your convenience.

Very truly yours,

JENKINS, BOWEN & WALKER, P.C.

A handwritten signature in black ink, appearing to read 'B.L. Bowen', with a long horizontal flourish extending to the right.

Brandon L. Bowen

Enclosures

**Application for Text Amendment(s)
To Zoning Ordinance**
City of Cartersville

Case Number: T 23-04
Date Received: 8/17/23

Public Hearing Dates:

Planning Commission Oct. 10 5:30pm 1st City Council Oct. 19 7:00pm 2nd City Council Nov 2, 2023 7:00pm

APPLICANT INFORMATION

Applicant <u>Switch, LTD</u> <small>(printed name)</small>	Office Phone _____
Address <u>7135 S. Decatur Blvd</u>	Mobile/ Other Phone _____
City <u>Las Vegas</u> State <u>NV</u> Zip <u>89119</u>	Email _____
Representative's printed name (if other than applicant) <u>Brandon C. Bower</u>	Phone (Rep) <u>770/387-1325</u>
	Email (Rep) <u>bower@jswpc.com</u>
Representative Signature	Applicant Signature
Signed, sealed and delivered in presence of:  Notary Public	My commission expires:
	

1. Existing Text to be Amended: See Exhibit A

Article _____, Section _____, Subsection _____

Existing Text Reads as Follows: _____

2. Proposed Text: See Exhibit A

Proposed Text Reads as Follows: _____

(Continue on additional sheets as needed)

3. Reason(s) for the Amendment Request: _____

To create a new Technology District

(Continue on additional sheets as needed)

**REQUIREMENTS FOR FILING
AN APPLICATION FOR TEXT AMENDMENT(S)
CITY OF CARTERSVILLE, GA**

Completed applications must be submitted to the City of Cartersville Planning & Development Department, located at 10 N. Public Square, 2nd Floor. Cartersville, GA 30120.

Requirements

1. **Completed Application:** Include all signatures. Complete items 1, 2 and 3.
2. **Filing Fee:** A non-refundable filing fee of **\$400.00** must accompany the completed application.
3. **Public Notice Fee (Optional):** The applicant may choose to have city staff prepare and manage the public notification process outlined in **Requirement 4** below. If this option is requested, there is an additional, non-refundable fee of **\$30.00** which covers the cost of the newspaper ad.
4. **Public Notification:** The applicant is responsible for the following **public notification** process unless the applicant has requested that staff manage this process as outlined in **item 4** above:
 - a. Not less than fifteen (15) days and not more than forty-five (45) days prior to the scheduled date of the public hearing being the final action by the City Council and not less than ten (10) days prior to the Planning Commission meeting, a **notice of public hearing** shall be published in the legal notice section of the Daily Tribune newspaper within the City of Cartersville. Such notice shall state the application file number, and shall contain the location of the property, its area, owner, current zoning classification, and the proposed zoning classification. Such notice shall include both the Planning Commission and the City Council meeting dates. (See attached Notice of Public Hearing).

EXHIBIT A
Proposed Text Amendment

The purpose of this requested text amendment is to create a new Technology zoning district in the Cartersville Zoning Ordinance. In order to accomplish that goal, the following text changes to the Zoning Ordinance are requested:

1. A new section 3.1.28 of the zoning ordinance will be adopted and state as follows:

3.1.28. *T Technology*: The purpose of this district is to provide an area to encourage the siting of new technologies, computer systems, data infrastructure and data hosting.

2. A new section 9.7 will be adopted, and shall state as follows:

Sec. 9.7. Technology (T) district.

9.7.1. *T district scope and intent*. Regulations in this section are the T district regulations. The T district is intended to provide land areas for commercial activities associated with technology, information systems, data infrastructure, data hosting and management activities and similar new information age uses without the community impacts often associated with industrial uses or warehouse distribution centers.

9.7.2. *Use regulations*. Within the T district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section shall be prohibited.

A. *Permitted uses*. Structures and land may be used for only the following purposes:

- Colleges and universities.
- Computer systems and facilities design, programming operation and management.
- Data processing, storage, hosting and related services
- Financial establishments.
- Information product research and development.
- Institutions of higher learning, business colleges, music conservatories, and similar institutions.
- Internet website design and hosting.
- Laboratories (medical and dental).
- Libraries.
- Medical offices (excludes veterinary).
- Museums.

- Offices, general.
- Office parks.
- Parks, private.
- Public utility facilities.
- Radio and television broadcast stations.
- Radio, television, or other communication towers, antennas and facilities.
- Research laboratories.
- Software design and development.
- Solar, renewable and alternative energy facilities.
- Technology consulting and management
- Telecommunications infrastructure and connectivity facilities.

B. *Accessory uses.* Structures and land may be used for uses customarily incidental to any permitted use.

9.7.3. *Development standards.*

A. *Height regulations.* Buildings shall not exceed a height of seventy-five (75) feet, measured from structure pad level. Height limitations shall not apply to accessory structures such as water towers, conveyer belts, smokestacks and other incidental and uninhabited parts of industrial uses.

B. *Front yard setback:* fifty (50) feet.

C. *Side yard setback:* fifty (50) feet.

D. *Rear yard setback:* fifty (50) feet.

E. *Minimum lot frontage:* One hundred ten (110) feet adjoining a street.

F. *Minimum lot width at the building line:* One hundred ten (110) feet.

G. *Minimum lot acreage:* Fifty (50) acres

H. *Minimum buffer requirements.* In addition to required setbacks, a minimum 100-foot wide buffer, which can include required setback, shall be required along all property lines which abut a residential district or use in order to provide a visual screen in accordance with section 4.17 of this chapter.

I. *Air conditioning units and HVAC systems.* Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping. This requirement shall not apply where the equipment is more than 100 feet from adjacent property lines.

J. *Front building facade.* The front building facade of all principal buildings shall be oriented toward street fronts or adjacent arterial street fronts. This requirement shall

not apply if the front of the building is greater than 500 feet from the public right-of-way or not visible from the public right-of-way.

K. *Security fencing.* Security fencing and walls shall not be located within the required buffer unless it complies with the general regulations pertaining to fencing. Fences and walls outside the required setback and buffer provided above shall not be subject to height limitations.

L. *Accessory structures.* Accessory structures shall be subject to the general ordinances of the City code, provided that if they are to be located outside of the setbacks and buffers provided above, they shall not be subject to the location requirements of section 4.9. Further, notwithstanding other provisions of the code, guard houses and secured entry features shall be permitted at public road entrances.

M. *Required setbacks and buffers shall only apply to external property boundaries with other properties not zoned as part of the T district.* Minimum lot frontages, width and acreage shall not apply to subdivided T lots, so long as the entirety of the contiguous T district complies with the requirements of this ordinance, and so long as the subdivided lot has adequate frontage on public or private roads to allow service.

N. *Private roads are permitted within the T district.* They shall be designed and built subject to the design guidelines for City public roads.

O. *Telecommunication towers shall be permitting to be installed in a manner consistent with the standards of Section 4.29 of this zoning ordinance.*

9.7.4. *Other regulations.* The headings below contain additional, but not necessarily all, provisions applicable to the T district.

- City of Cartersville Landscaping Ordinance.
- City of Cartersville Sign Ordinance.

3. Section 4.29 – Standards for communication towers, shall be amended to address the new Technology district, and shall henceforth 4.29 shall state as follows (note that no changes are proposed for this section other than adding the T district to appropriate paragraphs):

Sec. 4.29. Standards for communication towers.

4.29.1. General requirements.

A. The height limitations set forth in this chapter applicable to buildings and structures shall not apply to communication towers which shall be governed by this section.

B. A variance shall be approved by the board of zoning appeals for the construction of all new communication towers within the city excluding such towers erected in the AG, T, L-I, H-I, or MN zoning districts. In addition to standards required in this chapter, the following standards shall be considered by the board of zoning appeals prior to the approval of a variance for a communication tower:

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1. Height of the proposed tower.
 2. Proximity of the tower to residential structures and residential zoning districts, historical districts, parks, and designated nature preserve areas.
 3. Nature of the uses on adjacent and nearby properties.
 4. Surrounding topography.
 5. Surrounding tree coverage and foliage.
 6. Design of the tower structure, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 7. Impact upon the Cartersville/Bartow County airport.
 8. Availability of suitable existing towers and other structures for co-location as defined in this chapter.

C. All new communication towers or antennas shall obtain a building permit prior to the construction or placement of such structures or facilities. A building permit shall not be approved for such towers without prior approval of a special use if so required by this section. Excludes noncommercial amateur radio antennas, towers, and supporting structures.

D. The application for a communication tower shall include, but not be limited to, the following information:

1. A survey site plan drawn to scale showing all property lines with dimensions, location of existing buildings and other structures, topography, location of setback lines or other dimensional requirements, proposed tower location, tower height, location of accessory structures to the tower, proposed landscaping, neighboring uses, north arrow, and property street number;
2. The coverage zone of the proposed tower;
3. A report, documented by the submission of a certification by a qualified engineer, showing evidence of an engineering nature which demonstrates that no existing tower or structure can accommodate the proposed antenna(s). Said report shall include, but not be limited to, the following information:
 - a. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements;
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements;
 - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment;
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;

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- e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable (costs exceeding new tower development are considered to be unreasonable); or
 - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable; and
4. A report explaining the process by which the subject site was chosen.
- E. Shared usage of communication towers and antenna facilities is encouraged, and towers shall be designed to accommodate at least one (1) other entity to co-locate on such towers.
 - F. Accessory structures shall be limited to such structures associated with the operation of a communication tower.
 - G. All self-supporting communication towers shall be equipped with an anti-climbing device to prevent unauthorized access and such towers and related equipment and buildings shall be enclosed by security fencing not less than six (6) feet in height.
 - H. All communication towers must meet or exceed current codes, rules, standards, and regulations of the Federal Aviation Administration, the Federal Communications Commission or such governing agency guidelines as may be established from time to time. All such towers must be updated and brought into conformity with such standards and regulations within six (6) months of their adoption or as required by code if less than six (6) months. The failure to comply with this provision shall be grounds for the city to require repermitting or removal of the tower at the owner's expense.
 - I. At the time of application for a building permit, the plans for the construction of a communication tower shall be certified by an independent registered structural engineer as meeting all current safety and design standards of all applicable codes.
 - J. Communication towers are encouraged to locate in nonresidential areas where possible. Self-supporting towers shall not be permitted within a single-family residential zoning district unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity. Such towers shall not be permitted in any platted residential subdivision.
 - K. Self-supporting communication towers shall not be permitted in the DBD zoning district or the Etowah Valley Historic District.
 - L. Lattice and guy tower structures shall be permitted only within the T, L-I, H-I, or MN zoning district.
 - M. Communication towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration, Federal Communications Commission, or other applicable federal or state agency, be painted a neutral color or painted to match the existing structure so as to reduce visual obtrusiveness.

N. Communication towers shall not be artificially lighted unless required by the Federal Aviation Administration, Federal Communications Commission or other state or federal agency of competent jurisdiction. If lighting is required, the city may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

O. Communication towers shall not exceed a height above the "clear zone" required for a safe approach to the Cartersville/Bartow County Airport as set forth by the Federal Aviation Administration if within a three-mile radius of said airport.

P. Any communication tower approved under the provisions of this section which is not utilized by any communications service provider for any communications related purpose for a period of twelve (12) consecutive months shall be considered abandoned and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the city. If such antenna or tower is not removed within said ninety (90) days, the city may remove such antenna or tower at the owner's expense.

4.29.2. *Self-supporting communication tower setback, height, and separation.*

A. Self-supporting towers erected in the AG, T, L-I, H-I, or MN zoning district shall be set back a distance equal to one-third ($\frac{1}{3}$) the height of the tower from all adjoining property lines where such lines do not adjoin a residential zoning district and a distance of twice ($\times 2$) the height of the tower from all property lines which adjoin a residential zoning district.

B. Self-supporting towers erected in a nonresidential zoning district, excluding the AG, T, L-I, H-I, or MN zoning districts, except where otherwise stated in section 4.31.2.A. of this chapter, shall be set back a distance equal to the full vertical height of the tower from all adjoining property lines of a nonresidential zoning district and a distance of twice ($\times 2$) the height of the tower from all property lines which adjoin a residential zoning district.

C. Self-supporting towers erected in a residential zoning district shall be set back a distance equal to the full height of the tower from any nonresidential zoning district and a distance of twice ($\times 2$) the height of the tower from all property lines which adjoin a residential zoning district or any residential structure.

D. Self-supporting towers shall be limited to a height of two hundred (200) feet in a AG, T, H-I, or MN zoning district, one hundred fifty (150) feet in a L-I or G-C zoning district, and one hundred twenty (120) feet in a P-D, M-U, P-S, O-C, or P-I zoning district or any residential zoning district.

E. Self-supporting towers shall be separated a distance equal to one-quarter ($\frac{1}{4}$) of a mile. (Excludes such towers erected in the T, H-I or MN zoning district.)

F. For purposes of determining whether the installation of a self-supporting tower complies with setback requirements, the dimensions of the entire lot shall control, even though the tower may be located on leased parcels within such lots.

4.29.3. *Landscaping requirements.* Where adequate existing vegetation is not present, as determined by the city, communication towers located in all zoning districts other than T, H-I or MN shall have the base of the tower and any accessory structures to the tower

screened on all sides with a landscaped area having a minimum width of fifteen (15) feet. Said area shall be included in the setback and shall be planted with trees of an evergreen species capable of achieving a minimum height of twenty (20) feet at maturity so as to provide a visual barrier. Required plantings shall be a minimum of five (5) feet in height at the time of planting and placed outside of any required security fencing and shall be regularly maintained by the property owner(s) to ensure that the above objectives and standards are met.

4.29.4. *Nonconforming structures.* Any communication tower existing on the date of the adoption of this section of this chapter shall be considered a nonconforming structure and shall be required to follow the standards set forth in Article XIX of this chapter.

4.29.5. *Exemptions.*

A. A single tower seventy-five (75) feet in height or less owned and operated by a federally licensed amateur radio station operator shall be exempt from these requirements. However, the owner or operator of such antenna shall be required to comply with all applicable city, state, and federal building codes and with section 4.30 of this chapter.

B. Antenna facilities attached to existing nonresidential structures are exempt from these requirements except that such antennas shall meet or exceed Federal Aviation Administration and Federal Communications Commission standards and shall be limited to ten (10) feet in height above an existing structure in the historic DBD zoning district and twenty (20) feet in height above an existing structure in all other zoning districts. Such nonresidential structures shall include buildings, light poles, water towers, church steeples, and other similar structures. Such antennas shall not be attached to freestanding sign structures. Prior to placement, a building permit shall be obtained. Placement of antennas or other communications equipment on any nonconforming use shall provide no vested right for continued use of the site should the nonconforming use cease.

C. Attachment of additional antennas or transmission equipment to existing permitted communication towers shall be exempt from these requirements so long as the height of said tower is not increased; such equipment meets or exceeds Federal Aviation Administration and Federal Communications Commission standards; and a building permit is obtained prior to such attachment.

D. A monopole communication tower up to ninety (90) feet in height placed on nonresidential zoned sites shall be exempt from these requirements except that such towers shall be set back from all property lines a distance of one-third ($\frac{1}{3}$) the height of the tower except when abutting a residential property whereby the minimum setback distance shall be equal to twice ($\times 2$) the height of the tower. Such towers shall be no closer than one-quarter ($\frac{1}{4}$) mile to any other self-supporting communication tower unless within the H-I or MN zoning district and must obtain a building permit prior to construction.

E. Alternative communication tower structures such as manmade trees, clock towers, bell steeples, flagpoles, light poles, and similar alternative design mounting structures

that camouflage or conceal the presence of antennas or towers shall be exempt from these requirements. Such towers shall obtain a building permit prior to construction.

F. Communication towers constructed on the governing authority's properties, facilities, or structures shall be exempt from these requirements. Private facilities and structures placed upon the governing authority's property shall be governed by a lease agreement between the governing authority and the provider.

4.29.6. *Variances.* Variances from this section may be applied for and granted in the same procedural manner as required by Article XXII of this chapter.

4.29.7. *Appeals.* Appeals regarding the requirements of this section shall follow the procedures as set forth in Article XXII of this chapter.

9.7.5 Technology Park Sound Ordinance

In order to ensure that data centers do not contribute to noise pollution within the City, all data centers will be subject to the following standards:

a. Data center operations shall not produce sound that exceeds 65 decibels from 8AM to 6PM, measured at any adjacent property boundary between the data center site and a residential property. Nor shall data center operations produce sound that exceeds 55 decibels from 6PM to 8AM, measured at any adjacent property boundary between the site and residential property.

b. **After** 6 months of the issuance of the Certificate of Occupancy for each shell building, the City may obtain sound studies or require the data center operator to provide a sound study to verify that the operation is in compliance with the requirements of paragraph (a) above. If a data center is found to be in violation of the requirements of paragraph (a) above, the City may issue a notice of violation, which may direct that the data center take appropriate steps to operate within the requirements of paragraph (a) above. **If the data center fails to take steps to resolve the violation of paragraph (a) no later than 30 days of service of the notice of violation, the violator shall be subject to a fine up to one thousand dollars (\$1,000) for each day that the violation exists until full compliance is obtained.**

c. **The data center operator shall continue to bear the costs of any sound test or study required to monitor violations in paragraph (b).**

*** Red lettering indicates conditions recommended by Planning Commission.**