

VILLAGE OF DOWNERS GROVE
Report for the Village Council Meeting
12/20/2016

SUBJECT:	SUBMITTED BY:
Mobile Food Vendor Ordinance	David Fieldman Village Manager

SYNOPSIS

An ordinance is presented reflecting changes to the mobile food vendor ordinance.

STRATEGIC PLAN ALIGNMENT

Food Truck Ordinance is a High Priority Action Item for 2015-2017.

FISCAL IMPACT

N/A

UPDATE & RECOMMENDATION

This item was discussed at the December 13, 2016 Village Council meeting. Based on council discussion, the ordinance will be amended to reflect the changes in areas of operation, adding Esplanade, Highland Landmark, Highland Oaks, and all phases of The Corridors to the area of operation. The background checks provisions will remain unchanged.

Staff recommends approval on the December 20, 2016 Active Agenda.

BACKGROUND

This matter was discussed at the December 6, 2016, Council meeting.

Total Annual Permit Cost & Lack of Pro-Rated Cost for Partial Year

Based on Council discussion, staff is recommending the annual permit cost remain at \$250.00 with no proration.

Cost and Administrative Burden of Background Checks for All Employees

Staff recommends changing Section 8.16.2 and 8.16.3 of the current ordinance to require only the owners and/or applicants to be fingerprinted. This is consistent with Chapter 22, Taxis, and places the burden for compliance with the ordinance on the owner/applicant.

Limitations on the Areas of Operations

Licensed mobile food vendors are permitted to operate in Ellsworth Business Park and Park District Parks (with prior Park District Approval). Additionally, vendors are not allowed to operate within 500 feet of the property line of schools, brick and mortar restaurants, or special events. Based on Council discussion, staff

has removed reference to only operate in the Ellsworth Business Park. In addition to Ellsworth, vendors would be permitted to operate in Esplanade, Highland Landmark, Highland Oaks, and all phases of The Corridors.

On [July 5, 2016](#), the Village Council adopted an ordinance to allow permitted Mobile Food Vendors to operate in certain areas of the Village between the hours of 7:00 a.m. and 10:00 p.m., seven days a week. Since the adoption of the Mobile Food Vendor ordinance:

- 1 food truck license has been issued (The Roaming Hog)
- 5 vendors expressed interest in obtaining a license but did not submit an application

Village staff has engaged with these mobile food vendors and other stakeholders within the community to evaluate the permit process, and identify potential issues that may deter a vendor from submitting an application. The five vendors who did not pursue a permit cited a variety of reasons as to why they declined to submit an application and requested changes to the regulations (see table below).

Issue/Concern	Requested Change
Total annual permit cost & lack of pro-rated cost for partial year	Reduce the annual fee and pro-rate the fee for partial year operation
Cost and administrative burden of background checks for all employees	Require background checks for only employees with ownership interests
Limitations on the areas of operations	Expand the permitted areas of operation to include office parks such as the Esplanade (Lacey south of Butterfield) and Highland Landmark and Highland Oaks (31st & Highland)

ATTACHMENTS

Ordinance

Maps

VILLAGE OF DOWNERS GROVE COUNCIL ACTION SUMMARY

INITIATED: Village Attorney **DATE:** December 20, 2016
(Name)

RECOMMENDATION FROM: _____ **FILE REF:** _____
(Board or Department)

NATURE OF ACTION:

STEPS NEEDED TO IMPLEMENT ACTION:

- Ordinance
- Resolution
- Motion
- Other

Motion to Adopt "AN ORDINANCE AMENDING MOBILE FOOD VEHICLE VENDOR PROVISIONS", as presented.



SUMMARY OF ITEM:

Adoption of the attached ordinance shall amend provisions for mobile food vendors.

RECORD OF ACTION TAKEN:

Mobile Vend Amend

ORDINANCE NO. _____

**AN ORDINANCE AMENDING
MOBILE FOOD VEHICLE VENDOR PROVISIONS**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by ~~shading/underline~~; deletions by ~~strikeout~~):

Section 1. That Section 8.16.2. is hereby amended to read as follows:

8.16.2. Permit Required; Application

(A) It shall be unlawful for any person to operate within the Village a mobile food vehicle, as defined in this Chapter, without first having obtained a permit from the Village for that purpose. The Village shall issue only ten (10) permits per year and they shall be issued on a first-come first-serve basis.

(B) Application shall be made by the Vendor in writing to the Village on a form as required and approved by the Village. A permit and application fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be submitted with the application. A permit shall be valid until December 31st of the year in which it was issued and shall only be valid for one (1) mobile food vehicle.

(C) The Vendor shall be required to include in the application a true statement of certain facts including, but not limited to: whether the Vendor is a corporation, partnership or sole proprietorship; the state of incorporation of the Vendor if the Vendor is a corporation; whether the Vendor is organized and qualified to do business under the laws of the State of Illinois if the Vendor is a corporation; the names of the individuals who own the Vendor; the registered agent of the Vendor; the Vendor's principal place of business; and the principal office of the Vendor.

(D) The Vendor shall, with its application for a permit, register or cause to be registered the mobile food vehicle operated by, or operated for, such Vendor within the Village. The following information for the mobile food vehicle to be registered shall be provided:

(1) The year, make, model, color, license plate number and vehicle identification number of the vehicle.

(2) Name, address, and telephone number of the owner of the vehicle.

(E) A description of the food product(s) offered for sale, including the intended menu.

(F) The Vendor, applicant(s) and any employee(s) or agent(s) who will be operating the mobile food vehicle shall submit his/her fingerprints to be used in completing the review of the application. Such individuals are required to present themselves for fingerprints to be taken by the Downers Grove Police Department or by a State approved agency. A fingerprint fee, as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule", shall be paid. Provided, in the case of a renewal application, fingerprints and the fingerprinting fees shall not be required from a renewal applicant whose fingerprints are on file, unless the Village determines that there may be reason to believe that the renewal applicant may have unreported convictions.

(G) The Vendor shall submit a signed statement that the Vendor shall hold harmless the Village and its officers and employees, and shall indemnify the Village, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Vendor shall furnish a certificate of insurance showing that it maintains such public liability, food products liability, and property damage insurance as will protect Vendor, property owners, and the Village from all claims for damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000.00) per occurrence. The policy shall further provide that it may not be cancelled except upon a thirty (30) day written notice served upon the Village Attorney. The Vendor, applicant(s), and any employee(s) or agent(s) that will be operating the mobile food vehicle shall also submit

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proof of automobile liability insurance. A permit issued pursuant to the provisions of this Section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the Village Attorney.

(H) The Vendor shall be required to submit a copy of the required DuPage County Health Department Permit to the Village with the application. The failure to obtain or revocation of the DuPage County Health Department permit shall constitute an automatic revocation or denial of the Downers Grove mobile food vehicle permit.

(I) Failure to fully comply with the application and disclosure requirements of this Section shall constitute grounds for the Village to deny issuance of a permit. The Vendor shall notify the Village within thirty (30) days of any changes to application information.

(J) Issuance or Denial of License. The Village shall, within sixty (60) days after submittal of a properly completed application, or within such other period of time as the Village and the applicant shall otherwise agree, either issue or deny issuance of a permit pursuant to this Article.

Section 2. That Section 8.16.3. is hereby amended to read as follows:

8.16.3. Investigation.

The Village shall investigate the Vendor, including each officer, general partner, sole proprietor and all persons having an ownership interest of five percent (5%) or more of any such applicant and any employee(s) or agent(s) who will be operating the mobile food vehicle. If this investigation of the application materials reveals information showing any of the following, the application shall not be approved and no permit shall be issued to the Vendor:

(1) Any convictions of a felony within the past ten (10) years.

(2) Any convictions of misdemeanor, which misdemeanor involves any of the following offenses:

(a) Unlawful possession with the intent to deliver: any controlled substance, as such term is defined in the Illinois Controlled Substances Act (720 ILCS 570/100 et seq.), as amended from time to time; or cannabis, as defined in the Cannabis Control Act (720 ILCS 550/1 et seq.), as amended from time to time; or an intoxicating compound, as listed or defined in the Intoxicating Compounds Act (720 ILCS 690/0.01 et seq.), as amended from time to time, within the past five (5) years.

(b) Unlawful possession of any controlled substance, cannabis or intoxicating compound within the past five (5) years.

(c) Any offense involving moral turpitude, including, but not limited to any offense involving the misapplication, misappropriation or misuse of funds of another person within the past five (5) years.

(d) Driver's license suspended or revoked in any state within the past three (3) years as consequence of violations of law concerning the operation of a motor vehicle.

(3) Any requirements to register as a sex offender as required by the Sex Offender Registration Act, 730 ILCS 150 or has been convicted of criminal sexual assault and/or criminal sexual abuse, as such offenses are defined in the Illinois Criminal Code (720 ILCS 5/1-1 et seq.), or any like offense of another state or country.

(4) Any misrepresented or omitted material fact in the application for a permit.

Section 3. That Section 8.17. is hereby amended to read as follows:

8.17. Permitted Operating Locations.

(A) Mobile food vehicles are authorized to operate in the Village of Downers Grove only at the following locations:

(1) ~~Ellsworth Business Park~~ ^{As} depicted on the map in Section 8.17.1.

(2) Public Parks owned and operated by the Downers Grove Park District, subject to the Park District's consent.

(B) In addition to the above restrictions, no mobile food vehicle shall operate in a location that:

Mobile Vend Amend

- (1) would substantially obstruct a public way;
 - (2) would impair the movement of pedestrians or vehicles;
 - (3) would pose a hazard to public safety;
 - (4) is adjacent to a bus stop, taxi stand, or handicap loading zone;
 - (5) is within thirty (30) feet of an intersection;
 - (6) is within three (3) feet of a curb cut;
 - (7) is directly in front of a property entryway;
 - (8) is adjacent to or within five hundred (500) feet of the property line of a food establishment business. This requirement may be waived if the application is submitted with the written consent of the proprietor of the adjacent food establishment business. No person or corporation shall either pay or accept payment for the written consent provided herein;
 - (9) is within five hundred (500) feet of any festival, special event, or civic event that is permitted or sponsored by the Village except when the Vendor has obtained a temporary use permit from the Village; or
 - (10) is within five hundred (500) feet of the property lot line of any elementary, middle, and secondary schools (public or private).
- (C) Pedestrian walkways of no less than six (6) feet must be maintained around the mobile food vehicle location.
- (D) No more than three (3) mobile food vehicles shall be allowed to operate per private parking lot located in the authorized locations. The private parking lot must remain in compliance with the zoning code, including the off-street parking requirements for the host parking lot. The mobile food vehicles shall not block required drive aisles and must be parked on a dust-free surface lot at all times.
- (E) A Vendor shall not operate on private property within the permitted operating locations without first obtaining written consent to operate from the affected private property owner.

Section 4. That Section 8.17.1. is hereby amended to read as follows:

8.17.1. Maps.

<http://www.downers.us/public/docs/code/ElsworthBusinessParkMapMobileFoodVendorsPermittedLocationMap.pdf>

Section 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

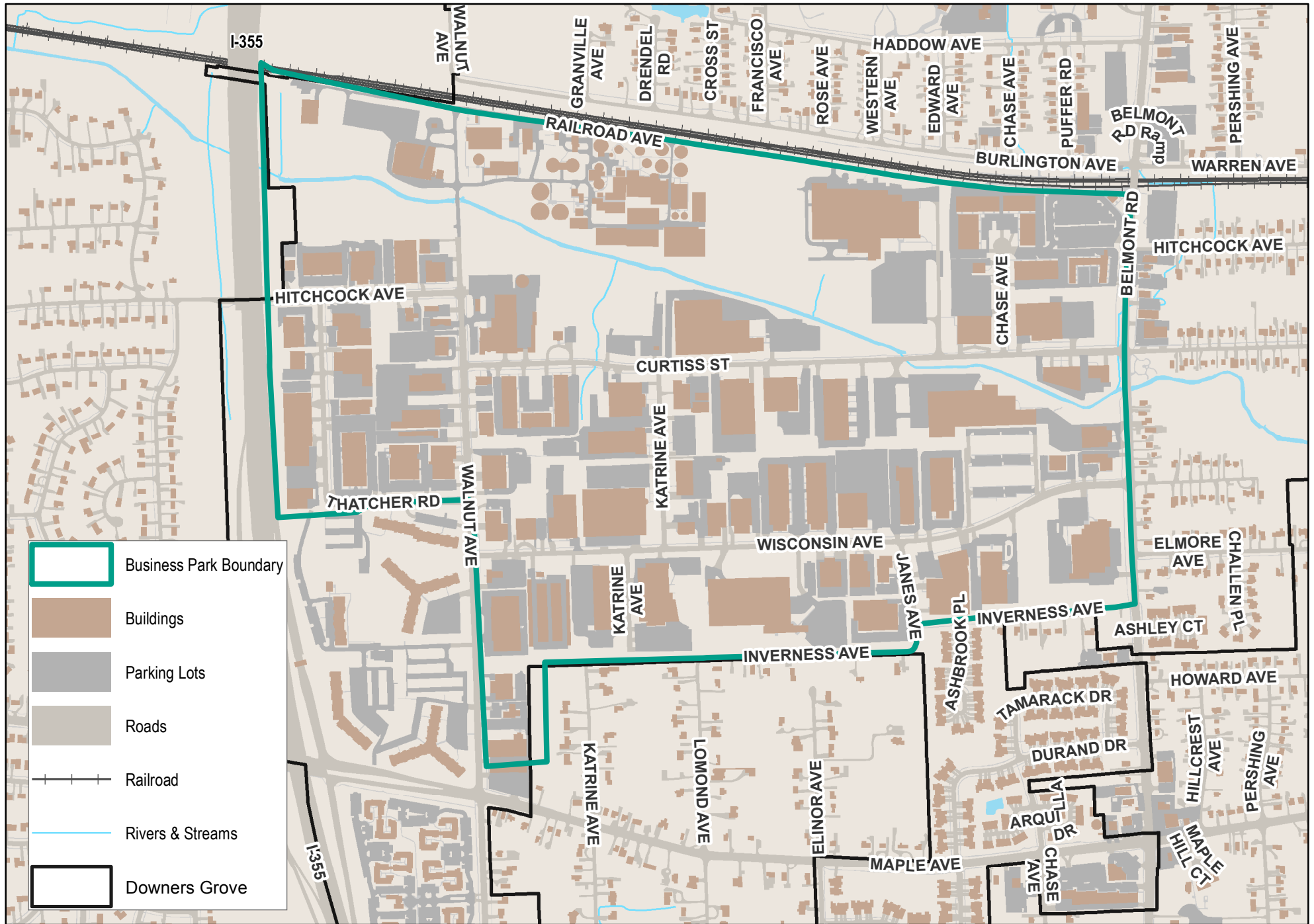
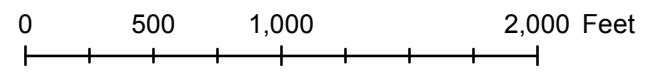
Passed:





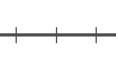


Published:

Attest: _____

Village Clerk

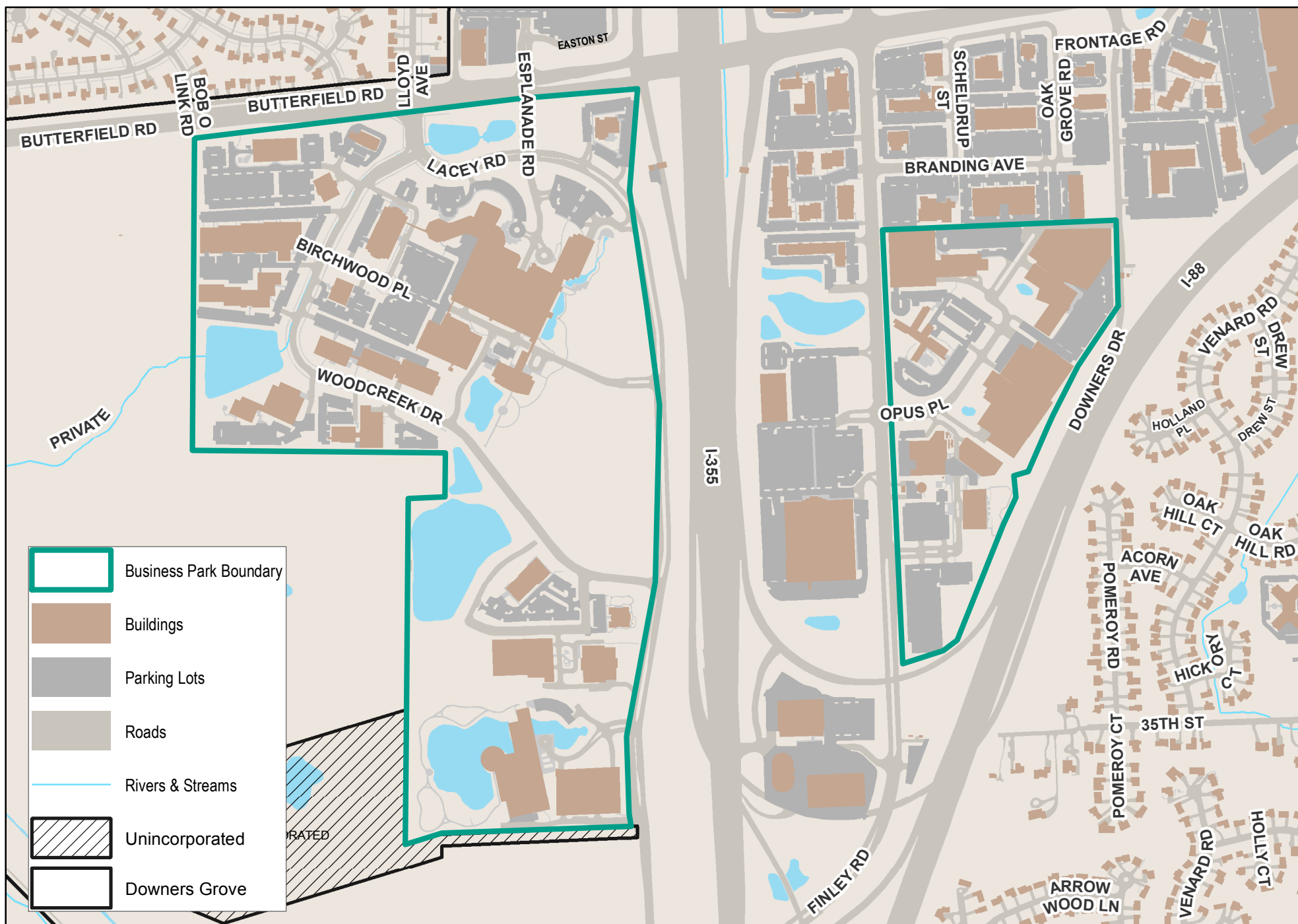
Ellsworth Business Park



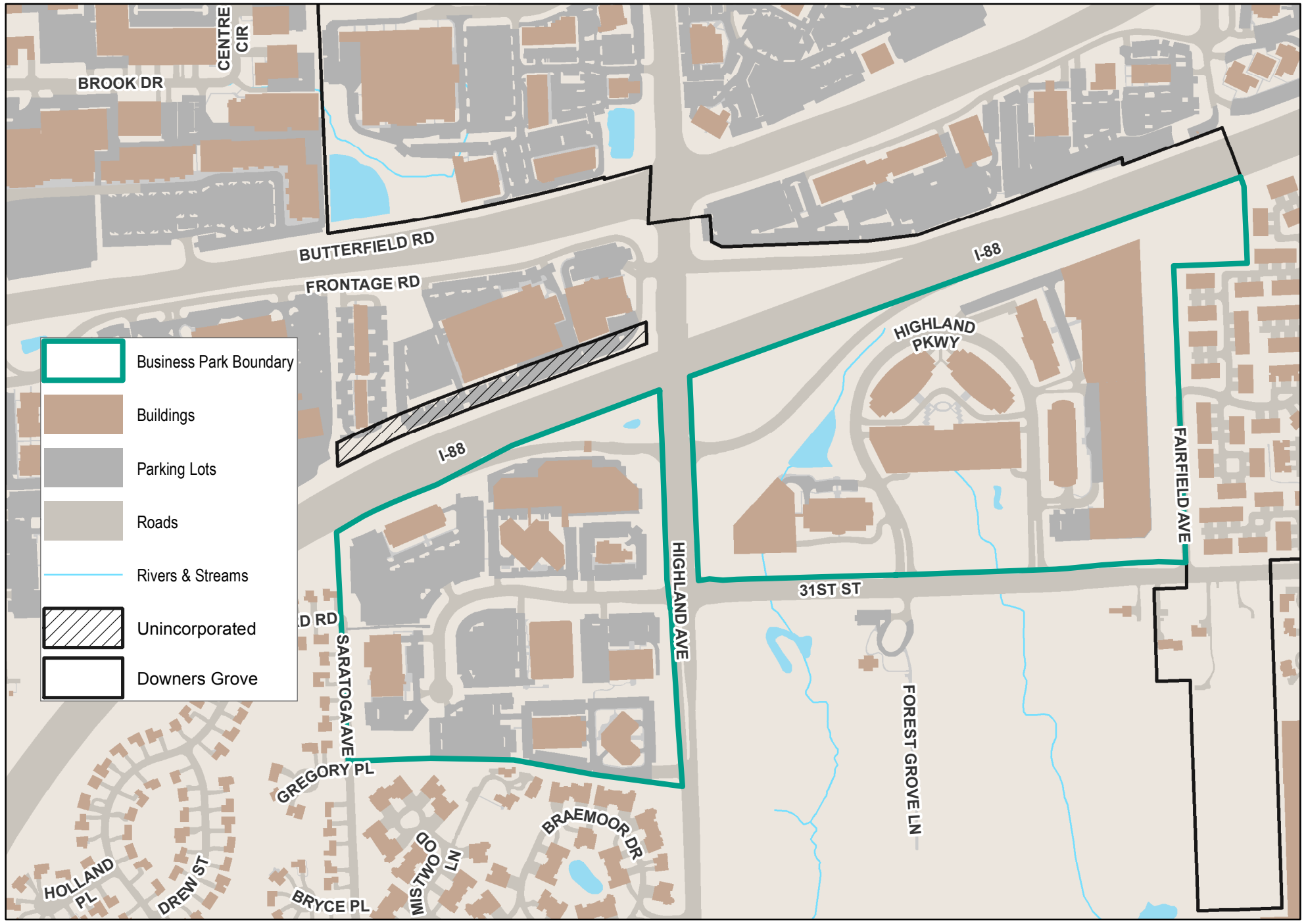
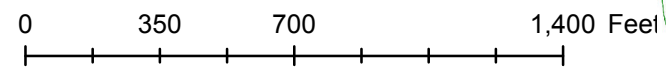
-  Business Park Boundary
-  Buildings
-  Parking Lots
-  Roads
-  Railroad
-  Rivers & Streams
-  Downers Grove








NW Quadrant of Village

0 462.5 925 1,850 Feet

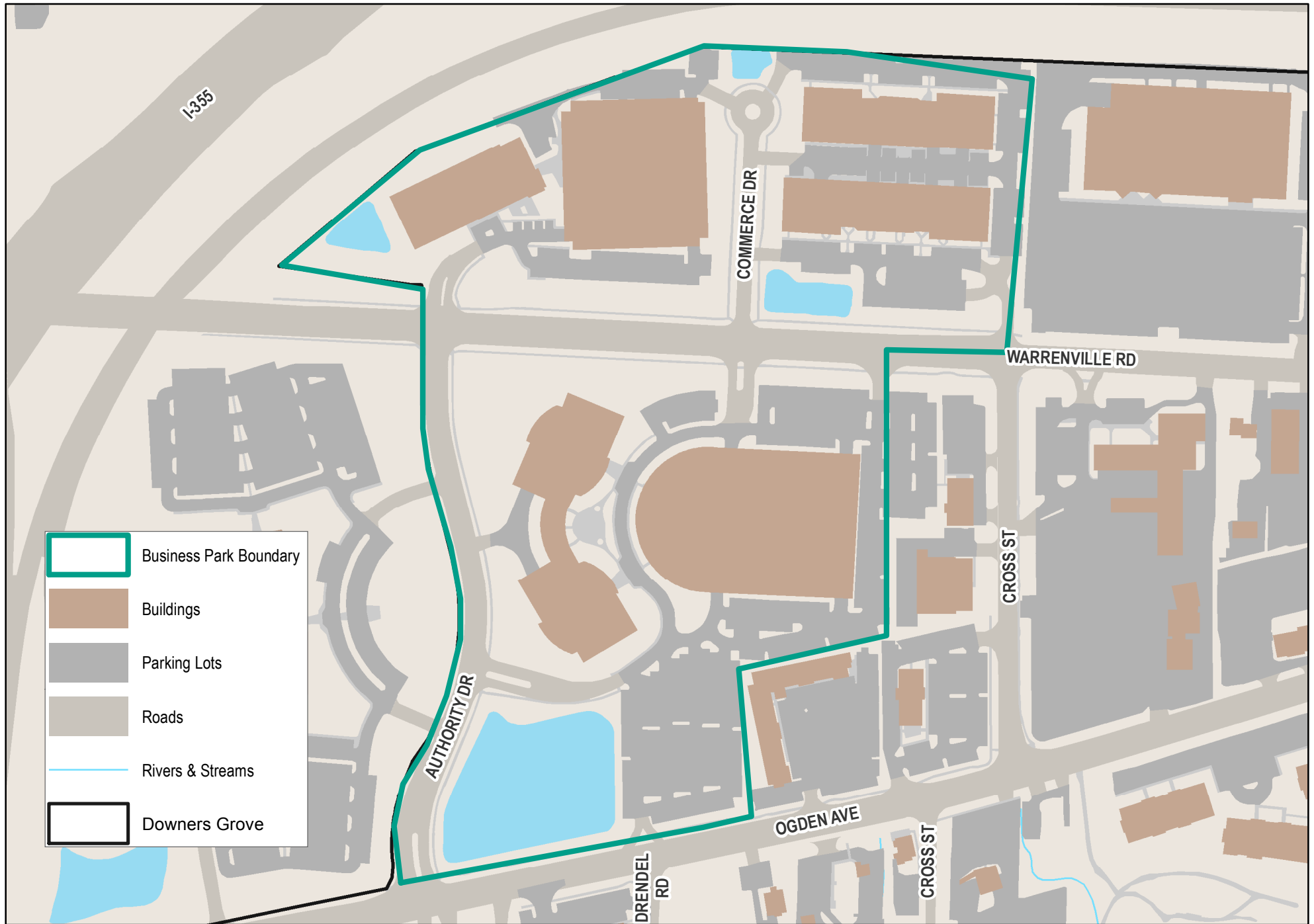
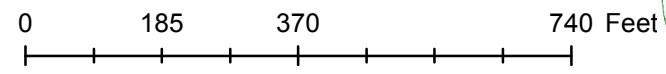







Highland Avenue Area



-  Business Park Boundary
-  Buildings
-  Parking Lots
-  Roads
-  Rivers & Streams
-  Unincorporated
-  Downers Grove

Warrenville Road



-  Business Park Boundary
-  Buildings
-  Parking Lots
-  Roads
-  Rivers & Streams
-  Downers Grove