



# BENTLEY GOODRICH KISON

A COMMERCIAL LITIGATION LAW FIRM

MORGAN R. BENTLEY  
*Managing Shareholder  
Board Certified Business Litigation*

BRIAN D. GOODRICH  
*Shareholder*

AMANDA R. KISON  
*Shareholder  
Board Certified Business Litigation*

CAROLEEN B. BREJ  
CORINNA S. COSER  
KATLYN N. CRAIG  
ASHLEY E. GAILLARD  
KAYLIN M. HUMERICKHOUSE  
MADELINE A. SALAMONE  
DAVID A. WALLACE  
*Board Certified Appellate Law  
and Fla. Certified Mediator*

August 22, 2024

**VIA Email: [citycouncil@venicefl.gov](mailto:citycouncil@venicefl.gov)**

Mayor Nick Pachota  
City of Venice City Council  
401 West Venice Ave.  
Venice, FL 34285

Re: Application 24-11RZ – Cassata Oaks  
Parcel ID 0399040001  
**Request for Continuance**

Dear Mayor & Council Members:

As you are aware, this Firm represents Fox Lea Farm (“Fox Lea”) with regard to rezone application 24-11RZ (“Petition”). Please accept this letter, on behalf of our client, as a formal request for continuance of the Cassata Oaks agenda item from the August 27, 2024, City Council meeting. As you will recall, the City of Venice granted Affected Party Status to Fox Lea at the Planning Commission hearing and Affected Party Status has been sought for the City Council hearing on August 27, 2024. As an Affected Party, Fox Lea is entitled to full party status in the proceedings.

The basis of this request is that the public hearing was not properly noticed. As of August 20, 2024, the notice posted on the Cassata Oaks property does not correctly state the time of the public hearing. The posted notice states that the City Council will meet at 1:30pm, however, the City of Venice Calendar as well as the notice linked on the City of Venice website states that the City Council will hold a public hearing beginning at 9:00am. A photo of the posted notice taken on August 20, 2024, is enclosed hereto.

Notice of public meetings is a mandatory requirement of the Government in the Sunshine Law. Pursuant to City of Venice Land Development Code, a public hearing must be noticed in three ways. There is a mailed notice requirement which requires a notice of the time and place of the public hearing be sent at least 15 days in advance of the public hearing by mail to owners of property within 250 feet of the property lines of the subject property. There is a posted notice requirement which requires a notice of the time and place of the public hearing be posted on the land that is subject to the application at least 15 calendar days in prior to the date of the public hearing. Last, there is a publication requirement which requires a notice of the time and place of the public hearing be published in a newspaper of general circulation in the city at least 15 calendar days in advance of the public hearing.

Pursuant to the City of Venice Land Development Code, the notice of public hearing with the time and date of the public hearing was required to be posted by August 12, 2024. Since that time, the public has been told the public hearing will begin at 1:30pm. A change in that time less than one week before the public hearing is set to take place would be prejudicial to the public's ability to participate in the decision-making process and would impede public comments from being considered.

Given the posted notice error, the City of Venice has proposed that the Cassata Oaks agenda item be addressed after the lunch break to ensure the public is able to participate. However, because the City of Venice Calendar as well as the notice linked on the City of Venice website stated the public hearing was to begin at 9am, Fox Lea's experts were available and prepared to testify during the morning session of the City Council meeting. Fox Lea is uncertain whether it's experts will be available after 2 pm. A later start time will be highly prejudicial to Fox Lea.

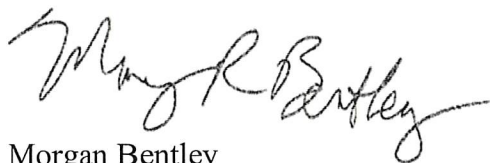
The Standard of Review when City Council decisions are appealed to Circuit Court is a three-part test, of which affording due process is one. To not provide proper notice of the public hearing would be highly prejudicial and a violation of Fox Lea's due process rights.

A continuance of the August 27, 2024, public hearing will not be prejudicial to Cassata Oaks or the City, as the delay would only be two weeks. By contrast, denying this continuance request and allowing the public hearing to go forward on August 27, 2024, without providing proper notice would be highly prejudicial to Fox Lea Farm and impede public comment.

For the reasons set forth above, and on behalf of our client, we respectfully request that the Cassata Oaks agenda item set for the August 27, 2024, City Council agenda, be continued until proper notice has been effectuated.

Thank you for your attention to our request.

Sincerely,



Morgan Bentley  
For the Firm

Encl.

cc: Venice City Clerk ([kmichaels@venicefl.gov](mailto:kmichaels@venicefl.gov))  
Kelly Fernandez, Esq. ([kfernandez@flgovlaw.com](mailto:kfernandez@flgovlaw.com))  
Fox Lea Farm  
Auburn Road FC, LLC – Melissa Strassner, Esq. ([mstrassner@berlinpatten.com](mailto:mstrassner@berlinpatten.com)) &  
Mariah Miller, Esq. ([mariah@mlmillerlaw.com](mailto:mariah@mlmillerlaw.com))



# CITY OF VENICE PUBLIC HEARING

PLEASE BE NOTIFIED THAT THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA WILL MEET ON **AUGUST 27, 2024 AT 1:30 PM** IN COUNCIL CHAMBERS, CITY HALL, 401 WEST VENICE AVENUE, VENICE, FLORIDA. THE MEETING WILL ALSO BE SIMULTANEOUSLY BROADCAST LIVE ON THE CITY'S WEBSITE ([HTTPS://VENICE.LEGISTAR.COM/CALENDAR.ASPX](https://venice.legistar.com/calendar.aspx)).

THE CITY COUNCIL WILL CONSIDER AND ACT UPON THE FOLLOWING:

**ZONING MAP AMENDMENT REQUEST (24-11RZ): TO ASSIGN A CITY OF VENICE ZONING DESIGNATION OF RESIDENTIAL, SINGLE FAMILY 3 (RSF-3) TO THE SUBJECT PROPERTY.**

ADDRESS: 0 BORDER ROAD (WEST OF I-75 AND EAST OF AUBURN ROAD)  
OWNER/APPLICANT: AUBURN ROAD FC, LLC  
AGENT: MARIAH MILLER, ESQ., BERLIN PATTEN EBLING, PLLC  
SIZE: 39.82 ± ACRES  
PARCEL NO.: 0399040001

All interested persons are invited to participate and be heard. Public comment may be provided as follows: (1) in person; (2) via email at [citycouncil@venicefl.gov](mailto:citycouncil@venicefl.gov); (3) by regular mail to the City Clerk, 401 W. Venice Avenue, Venice FL 34285. Written comments received by August 27, 2024 at 8:00 AM will be distributed and/or considered by the Councilmembers and included in the public hearing record. No stenographic record by a certified court reporter is made of this meeting. Accordingly, any person who may seek to appeal any decision involving matters noticed herein will be responsible for making a verbatim record of the testimony and evidence at this meeting upon which any appeal is to be based. The public hearing may be continued from time to time. If you are disabled and need assistance, please contact the City Clerk's office at least 24 hours prior to the meeting.

IT SHALL BE A VIOLATION OF SECTION 87-1.2.E(2) OF THE CITY OF VENICE CODE OF ORDINANCES FOR ANY PERSON TO REMOVE OR DEFACE ANY SUCH POSTER UNTIL THE PLANNING COMMISSION HAS ACTED ON ANY PETITION.