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Delray-area neighborhood irked that elder center has no tree buffer

Dispute brings tension to Tuscan Gardens' bid to add 96 more beds

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DELRAY BEACH — Residents of Aspen Ridge, a development of 95 single-family homes west of Delray Beach, say they were assured three years ago that they would hardly notice the three-story congregate-living facility that would be built next door.

A landscape buffer was supposed to screen most of Tuscan Gardens from their view, but it never was built. The buffer consists of shrubs about 12 inches tall, which the lawyer for Aspen Ridge, Joshua Gerstin, called "comical."

See TUSCAN, Page 2B

Tuscan Gardens, a congregate-living center in suburban Delray Beach, in May said it wants to expand its site onto the dirt area at right.
HANDOUT PHOTO

Tuscan

Continued from Page 1B

Tuscan Gardens is on the west side of Sims Road, about a half-mile north of Atlantic Avenue, and abuts Aspen Ridge.

"We were promised a lot," said Jon Morganstine, a resident of Aspen Ridge who lives across the street from the shrubs. "They did not deliver. It is as if there is nothing between us and them."

Palm Beach County code enforcement has cited the owner, Tuscan Gardens of Delray Beach Properties, for failing to install the landscaping based on approved plans. Aspen Ridge residents say they were promised a berm, a 6-foot fence and a hedge along the south property line.

The owner has until early June to build the landscape buffer or the county says it will bring the owner before a magistrate to seek fines.

Tuscan Gardens wants to add 96 beds

Meanwhile, Tuscan Gardens' operator has filed plans with the county to expand its number of beds to 313 from 217. It provides beds for assisted living, independent living and memory care.

The 13-acre parcel was purchased in December 2017 for $4.8 million. As part of the first phase, the developer built a 217-bed, 134,000-square-foot facility on 7.4 acres. It opened in 2019.

The second phase, to be built on a 5.6-acre parcel to the west of the existing facility, would consist of two four-story buildings, eight single-story independent living villas, a clubhouse and a swimming pool.

The county Zoning Commission has twice told the developer to correct landscape issues from the first phase before seeking approval for the second phase. Gerstin said Tuscan Gardens' position is that it will take care of the landscape issues if the expansion is approved.

"We say, 'No way.' My clients find it difficult to accept what they promise," Gerstin said.

Tuscan Gardens recently hired Scott Backman, a land-use lawyer. At a zoning board hearing this month, Backman said the code violations will be addressed, noting that he could not account for what had transpired. He said he is working closely with Gerstin to address open concerns related to Phase 2. Much of the required buffer was installed, according to Backman, with the exception of a 6-foot hedge and some missing ground cover and canopy trees.

Tuscan Gardens, he said, is in the process of commencing installation of the missing landscaping, which will occur before the Zoning Commission's June meeting.

A major issue was the removal of existing native vegetation that would have provided excellent screening for Aspen Ridge, according to Gerstin.

"No attempt was made to retain any of it, in breach of the promise made to the association and a condition of approval," Gerstin told The Palm Beach Post.

"The association never opposed the effort to built Tuscan Gardens based on the assurances it received from the developer. The position might have been different if the association knew the promises would be broken."

The Alliance of Delray Residential Associations supports Aspen Ridge, noting in a letter that the community has been suffering for more than a year with a deleterious effect on its front entrance.

Josephine Bennardo, president of the Aspen Ridge Property Owners Association, said Tuscan Gardens has not been a good neighbor, noting: "I never imagined someone would be able to look into my backyard from a three-story building. My sanctuary is my backyard."

During construction, the concrete sidewalk at Aspen Ridge was cracked. It was repaired just before a recent Zoning Commission hearing.

Rodent and insect control was nonexistent during Phase 1, according to Gerstin. The association wants assurances the same problems will not occur with Phase 2.

Another issue was the installation of a bell tower that rang every hour. Again, just before the hearing, Tuscan Gardens agreed to stop ringing the bell, Bennardo said.

Bennardo said the property-owners association is concerned over the height of the four-story buildings planned for Phase 2.

An underground parking garage is planned for each of the two four-story buildings that could push their height to 50 feet, she noted, which is out of character with the area. Gerstin said the association will argue that the height should be reduced.

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