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CCC Supervisors Deny Bayseng Spice Appeals

By Andrea A. Firth



Tamara Attard Photo Ohlen Alexander

In 2005, Orinda residents Tamara and Paul Attard set out to expand their family-owned and operated organic spice business, the Bayseng Spice Company (see sidebar). Their bay leaf dehydration plant at 21 Old Tunnel Road had exhausted its usefulness and needed to be rebuilt. Demand for their product, California bay leaves, far exceeded their production capacity, so they wanted to add a second drying facility across the street at 1000 Fish Ranch Road to double capacity. And, they wanted to build a family home at the site, what they call the farmhouse, to enable them to be close to the operations and enjoy the picturesque views of the Oakland hills beyond the Caldecott Tunnel.

The Attards' process for wholesale bay leaf production is quite linear: pick the leaves, clean the leaves, dry the leaves, and package the leaves for wholesale distribution. But the process of realizing their business expansion and new home has been anything but straight forward and marked by appeals, denials, and the involvement of an alphabet soup of public agencies.

On March 9th, the Contra Costa County Board of Supervisors voted unanimously to deny the Attards' more

than year-long appeals of a stop work order on their new home and denial of the building permit for a new dehydration plant. Three of the five supervisors were in attendance, Chairman John Gioia, Mary Piepho, and Gayle Uilkema, the supervisor for District 2 that includes Orinda.

"We could be facing bankruptcy and going out of business in six months," stated Paul Attard in response to the outcome of the hearings. In addition to the \$25,000 monthly interest expense they have incurred over the protracted appeal process, Attard states they have already spent \$550,000 on the home's foundation and invested over \$3 million on the stalled project.

Jason Crapo, Deputy Director of the Contra Costa Building Inspection Division, testified that the building permit issued for the Attards' home in April of 2008 had been "issued in error" due to the lack of an appropriate water supply and sewage disposal system. When the error was discovered several months later, a stop work order was issued on December 30th of 2008.

The Attards and their lawyer emphatically contend that they have both a water supply and sewage system that were approved by the County when they initiated the project in 2005. They argue that the County has already approved the well on the Fish Ranch Road parcel for a water source and sewage disposal through a line that ties into a CalTrans sewer, and that the County conducted multiple inspections of the site between 2005 and 2008. [These "approvals" are at the crux of both the home building stop work order and the dehydration plant building permit denial.]

Finding an acceptable sewage system for the Attards' properties has not been easy. Earlier proposals for septic and holding tank systems were denied by the County. However, in 2005, the Attards found a solution to their sewage disposal problem by tying into the CalTrans sewer line that runs through the Caldecott Tunnel and connects to the City of Oakland system on the west side. The Attards paid CalTrans \$800,000 to tap into the sewer line and repair what was then a failing system.

"This new sewer line is great for CalTrans," testified Raymond Mailhot, CalTrans' principal representative for the tunnel in 2005. Mailhot explained that prior to the deal with the Attards, the CalTrans sewer system, which serves bathrooms on each side of the tunnel, was inadequate and might have posed health problems.

At issue is the several hundred feet of lateral sewer line that links the Attards' properties to the CalTrans sewer. According to the Attards, the County was aware of the sewer connection and the necessary approvals had been obtained when the foundation-only permit for their home was granted in 2005. Per Deputy Director Crapo, the County Health Officer and the City of Oakland never approved the service, and further, the line necessitates review and approval from the Contra Costa County and Alameda County LAFCOs, because the Attards' property lies outside the urban limit line. (Local Agency Formation Commissions [LAFCOs] are state agencies that regulate boundary issues.)

Carlos Baltodano, an Orinda resident who was the Deputy Director of the Building Inspection Department at the County when this first permit was issued, challenged the County's position. "Everyone was happy that there was solution [to the Attards' sewer problem]," testified Baltodano. "The County has always supported a one-stop permit center... These permits are routed physically and discussed thoroughly. I submit that everyone looked at it."

But the Supervisors saw the situation differently. Supervisor Gioia found the Attards' arrangement with CalTrans highly unusual and without precedent, and one that may have bypassed approving bodies. "The County

made an error issuing a permit," acknowledged Gioia, but he added that CalTrans was in error in entering into the contract with the Attards without proper land use permits. Supervisors Piepho and Uilkema concurred that CalTrans has no land use authority, and that approvals from LAFCO must be pursued.

"It's mind boggling...The type of procedural manipulation that is being used is horrendous," stated Attard at the hearing. While he and his wife plan to resubmit their applications, he believes their chances of getting the LAFCO approvals are remote, and he estimates the damages they have suffered in lost revenue and investment costs are in excess of \$10 million. "We relied on the County," emphasized Attard, "They told us what to do. We did it. They inspected it, and now they have reneged."

The Bayseng Spice Company

In the mid-1970's Tamara Attard and her brothers James and Michael Lewis were attending college at UC Berkeley. On the drive back from campus to the family home in Orinda, they eyed property along Fish Ranch Road that the entrepreneurial siblings felt would make the perfect site for a family business. Joan Lewis, their mother, agreed to put up the funds to purchase the land if her children could make it economically viable. They solicited a Cal professor to walk the property with them, and he observed that the area was covered with bay trees. The Lewis' researched California bay leaves and learned that the aromatic herb is indigenous to the Mediterranean- like climate of parts of northern California. They investigated the supply chain, made a connection with a distributor, and in 1978 the Bayseng Spice Company was formed. [The original plans were to also cultivate and sell ginseng in addition to bay leaves, thus the name Bayseng.] Because California bay leaves are rich in volatile oils, the drying process presented a challenge. Freeze drying equipment was expensive, and they were reluctant to seek outside capital or loans. The Lewis' were able to procure an older, less expensive drying machine, which they adapted to meet their needs with the ingenuity of one brother's design and the elbow grease of the other two. With the dehydration plant outfitted, the Lewis family was distributing bay leaves wholesale by 1981. In 1991, Tamara's husband Paul Attard joined the business, adding his experience in technology and finance to the growing family business. Now the largest producer of California bay leaves in the world, Bayseng Spice Company has acquired over 1,000 acres of land in Napa, Solano, and Lake Counties on which they cultivate bay trees. With over twenty employees, Bayseng harvests the prolific leaf year round. According to Paul Attard, the demand for the product far exceeds their current production capacity, and he believes they could double their number of employees once able to expand.

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