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**EDWIN M. LEE**  
Mayor

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Director

**URBAN FORESTRY COUNCIL  
LANDMARK TREE AD HOC COMMITTEE SPECIAL MEETING  
DRAFT MEETING MINUTES**

**Thursday, Aug. 6, 2015, 4:15 p.m.  
City Hall, Room 421  
One Dr. Carlton B. Goodlett Jr. Place  
San Francisco, CA 94102**

**COMMITTEE MEMBERS:** Rose Hillson (Chair), Malcolm Hillan, Dan Kida, Carla Short, Jon Swae  
**STAFF:** Mei Ling Hui

**Order of Business**

- 1. Call to Order and Roll Call.** The Landmark Tree Committee meeting convened at 4:17 p.m. Present: Chair Hillson, Members Kida, Short and Swae. Ms. Hui ascertained quorum and called the agenda items. Member Hillan was excused when the meeting was called to order. He joined the meeting at 4:19 p.m.
- 2. Approval of Minutes of the July 9, 2014 Urban Forestry Council Landmark Tree Committee Special Meeting.** Explanatory Document: July 9, 2014 Draft Minutes) (Discussion and Action).

Upon Motion by Member Swae, second by Member Short, the July 9, 2014 Draft Minutes were approved without objection (Members Hillson, Hillan, Kida, Short and Swae).

- 3. Hearing on Nominations for Landmark Tree Status.** The Landmark Tree Committee will hold a hearing to determine whether the tree nominated at the following location meets the criteria for designation as a landmark tree. (Discussion and Action)

**Norfolk Island Pine (*Araucaria heterophylla* (synonym *A. excelsa*)), located at 46A Cook Street, Assessor's Block 1067, Lot 032, San Francisco, CA.** (Explanatory Documents: Nomination Form, Committee and Staff Evaluation Forms, Tree Images)

Coordinator Hui went over the order of speakers, first Sponsor of the nomination would have the opportunity to speak -- Commissioner Richards or a member of the Planning Commission (none present), followed by Ms. Hui's report, then Public Comment with each person given 2-3 minutes with the time to be determined by the Chair and everybody to get the same amount of time to speak, followed by the members of the Committee who will give their reports, then if needed, Staff Rebuttal, Property Owner Rebuttal and the Committee will have discussion. Before the Committee takes comment, there will be time for Public Comment as well. Ms. Hui went over the 3 possible actions that could happen:

1. Committee can vote as a quorum to support the nomination
2. Committee can vote as a quorum to not support the nomination
3. Committee can get a split vote (unable to get 3 votes either way)

In any case, this tree will move to the full Council hearing later and it will make the actual determination on whether or not they think the tree is worthy of landmark status. If the full Council similarly has a quorum vote "for" the tree, "against" the tree or "split vote," and that would mean 8 votes; and if the Council decides to move the tree forward the packet of information will be sent to the Board of Supervisors with the Council's findings. If the Council votes to not support the nomination, the nomination will end at that time and the tree cannot be nominated again for 3 years. If the Council is split in their determination, then the information packet will go to the Board of Supervisors with no vote from the UFC – with no determination of recommendation from the UFC -- and it will be up to the Board of Supervisors regarding the nomination.

At this time, it was determined that there was no representation from Commissioner Richards nor anybody from the Planning Commission.

Ms. Hui made reference to the Planning Commission packet of information with the resolution initiating the nomination. Ms. Hui stated information was received that the indicated tree was a Cook Pine rather than a Norfolk Island Pine. Ms. Hui evaluated it as a Cook Pine rather than a Norfolk Island Pine. She stated the Cook Pine is rare and she has not encountered this species before. Norfolk Island Pines are not super common but they are not uncommon in the city. As for the physical attributes, she stated that the tree is large, is of an advanced age – estimates received are between 70 – 120 years – a mature tree even at the low end; a very nice looking tree of distinguished form. She stated Cook Pines have a very columnar form, tapering to a tip, "rocket shaped." The tree is in good condition; there is some historical association. The person who built and developed the property was George Smith who was a director of the Odd Fellows; and the house the tree is adjacent to is a historic resource "Type A." She stated further that the tree provides environmental benefits; as for prominence as a landscape feature, it is the tallest tree around, visible from the public right of way with the street and the steps that go up the hill; it is a low traffic area; it may provide some habitat as a bird perch and a nesting site, a site for birds to rest. No erosion control, possible there is wind and sound barrier as the neighbors stated there was increase in noise and wind because the landscape was changed; there is cultural appreciation with petitions and other things from the neighbors supporting the nomination; the tree is a lovely tree and she thinks it does contribute to the neighborhood character; Ms. Hui put "unknown" for "profiled in publication or other media." The report from the Planning Commission identified the book where landscaping was mentioned in the report. Ms. Hui has attached a copy of it in her report. Ms. Hui showed pictures at the end to show the tree – the Cook Pine -- has flaky bark and the rocket shape as shown in the picture from the street.

A point of clarification arose as to process by the Property Owner's legal representative to Coordinator Hui on whether the nominators speak if the Sponsor is not present or if they speak as members of the public. Ms. Hui stated that in the past, the Sponsor speaks unless he cedes that time to the nominator(s). In the absence of the Sponsor, the persons who brought the nomination to the Sponsor would speak as members of the public.

Next, the Property Owner's representative stated she would split her time with Consulting Arborist, Larry Costello. She stated that they had asked for a continuance because the consulting arborist that did the evaluation was out of town and she understands that they were not able to get that so Mr. Costello has reviewed the report and will be able to speak to that as well from an arboricultural standpoint. She stated her focus is on tree law and that she wrote a book called Understanding Tree Law. Ms. Barry Caplan Bonaparte (Bonaparte & Associates) stated that we all appreciate the idea behind tree protection and the urban forest and everyone enjoys the benefits that trees provide; however sometimes people misunderstand the Landmark Tree Nomination process and as a result it is sometimes mis-used. Sometimes people who love trees and who might not ever want a tree removed might think this is the proper forum, as are people who use the process in defending a view-obstruction claim, or used by

people who are trying to prevent development on a property. She stated that none of these justifications are appropriate for using the Landmark Tree Nomination process. Ms. Bonaparte stated that in this situation, the process is being invoked by neighboring property owners who no doubt love trees and this tree in particular but are also concerned about the potential for development of the property in question. Ms. Bonaparte stated this -- even though it was not part of the materials submitted to the Committee -- there is evidence that the party supporting the nomination had been representing to others that the property owner was a "flipper" who cares "only about buying and selling property and making as much money as possible." She stated that a petition was circulated by the people on change.org and there were various representations made and one was, "If we can convince City Hall to save this remaining historic tree, it will send a message to them that we don't ask for zero development, just creative development preserving the natural life and history of San Francisco." She stated that that specimen was landmarked before in the city of San Francisco but because this was one that was in the way of the developer and they make money for the city, they can fight us and they even go so far as to call the property owner, Mr. Rogers, "evil." Ms. Bonaparte stated that they've left threatening voicemails for him, they've sent very charged texts to his cell phone and that they indicated that he should prepare for a significant battle. Ms. Bonaparte stated it's been a campaign and it's been apparently relentless. She stated that their Supervisor has stated that this tree is not appropriate for landmark and so they went to the Planning Commission who was apparently never faced with such a request before and they didn't know what to do with it so they didn't have any real procedures for notice or anything for due process or proper protections but they went ahead with the hearing and in the end it was a close vote of 4-3. Ms. Bonaparte said the vote was based on misinformation by the applicants in addition to the fundamental mis-understanding of what this process is all about. Ms. Bonaparte cites as an example a letter to the Commission by the people trying to get the tree landmarked which says, "The Norfolk Island Pine described in this Landmark Tree Nomination shares the property with two historically landmarked buildings" and that that is just false. The buildings are not designated historic landmarks, and they've been making this representation throughout in trying to get signatures and it's suggesting that to this Committee. They've also made representation that the tree was planted by the original owner and that's also false. She stated that in fact, we have photos from the late 1800s that show the property (photo of Cook St. property with horse and buggy at front) that show no significant trees on the property at all much less this tree in question. Ms. Bonaparte understands that they really want this to happen but the truth has to bear out. Ms. Bonaparte went on to say that the only thing that matters, as Ms. Hui was indicating in going through the form, is if it fits the criteria for landmark status. She stated that if it doesn't then the inquiry ends there. Ms. Bonaparte stated that there is one professional, Consulting Arborist, who has gone through all of the criteria and made that determination and that is James McNair. His CV was not included in the packet so Ms. Bonaparte provided a few copies of it so the Committee could review his qualifications and that Mr. Costello can speak to that as well. Ms. Bonaparte stated that Mr. McNair's opinion was that the tree does not fit the criteria and he provides in detail his professional opinion why that is. In addition, Ms. Bonaparte stated that when she saw there was some confusion as to species, she stated that she went back to him and asked him if he could tell with any degree of certainty without doing any further physical examination if the tree was properly identified as Norfolk Island Pine and she stated he went back and looked at all the photography and research and he got back to her before the hearing and he said to her definitively that it was a Norfolk Island Pine. Ms. Bonaparte noticed there were some photos taken up close and they did not allow anybody to be on the property and she was not quite sure how that happened but that he (Mr. McNair) was quite positive in his original characterization of the species was correct; and in the packet is the arborist's report who was called out to the property by the folks who were sponsoring this and their own arborist identified it as a Norfolk Island Pine. Ms. Bonaparte stated that it will be interesting to hear how that <strings (?)—indiscernible>. Ms. Bonaparte then stated there were other problems -- the signatures on the petition, many are people related to the people trying to get this tree on the books and some are from Oakland, Los Gatos, Palo Alto, one from Germany, several from San Francisco but

not from this area so as much as three-quarters of the people on the list are not concerned neighbors per se. Ms. Bonaparte brought the book (Here Today) referenced, and she pointed to a whole section entitled, "Richmond, Sunset, Golden Gate, Presidio Heights" and that in this section, that property is not mentioned at all. There is also no picture and it is not talked about at all. She indicated that there is an appendix at the end which talks about various properties. There it says for 46 Cook, "George J. Smith, a Director of the Odd Fellows planted his estate with many trees that came from the cemetery. Today, all that remains on his property is a one-story Italianate home and carriage house." Ms. Bonaparte stated, "In other words, not the trees."

A Committee member asked for the date of that; the response was 1870.

With the time running out, Dr. Costello's comments were to be heard as part of Public Comment. Ms. Bonaparte agreed to take that.

Public comments:

Roy Leggitt, Consulting Arborist, lives nearby and shops at Laurel Village shopping center and is familiar with the area. Mr. Leggitt read Mr. McNair's report and Mr. Hummer's report. Hummer's report identifies the tree as *A. columnaris* and McNair's report identifies it as *A. heterophylla*. Mr. Leggitt referred to his document citing various resources. Mr. Leggitt stated that it was conclusively, without a doubt, *A. columnaris*, the Cook Pine. He stated that McNair can argue about Hortus Third, his own citation but he failed to read and look at the pictures associated with the article. Mr. Leggitt shared color photos from the documents he brought which showed both species. He stated we have the tree that is on the left (of the photos on the page), and he stated that the internodes are very close, the tree has dense branch structure and it's columnar or "rocket shaped." Mr. Leggitt stated that *heterophylla* has internodes that are 4-6 ft. long and is a very open-limbed plant and a very different looking tree. Mr. Leggitt stated that *heterophylla* does not fill in with branches between its internodes but it does get longer limbs and bushier heads. Mr. Leggitt also pointed to pictures of more mature *heterophylla* in his document attachments. He stated it was denser looking due to secondary branching. Mr. Leggitt had issue with a consulting arborist offering an opinion who cannot identify the species of tree, as not credible. Mr. Leggitt stated that these trees don't grow in Sonoma, Mr. McNair lives there. Mr. Leggitt stated he has lived in San Francisco and has managed many *Araucaria* and there are 6 species here. He stated that has managed many of them over his career.

Jen Levitt (carriage house inhabitant of 46A Cook) spoke about what makes the tree a historical landmark of San Francisco. George J. Smith was the original owner and alleged builder of the structure around 1870. She found Here Today on the sixth floor of the library (in additional documentation 4.3) which stated that he was an Odd Fellow Director of the Odd Fellows Cemetery and as such he could get marvelous trees off the property and did. Ms. Levitt gave a history of the Odd Fellows Cemetery as originally part of Lone Mountain Cemetery of 320 acres in Laurel Heights and the Inner Richmond neighborhoods. She stated it was inspired by the garden cemetery movement on the east coast and designated with miles of carriage roads for picnicking and had every species of ornamental shrubs and rare plants as stated in the 1860s San Francisco Directory. There were prominent San Francisco people buried there. She stated there was the first sheriff, the inventor of the cable car, US senators and naval heroes. Ms. Levitt stated that the Cemetery is said to have inspired Golden Gate Park. She further stated that at the dedication of the Cemetery, Colonel Baker said, "There beneath the pines and willows and the bending oaks, the memory of the sleeping dead be forever green." Ms. Levitt also stated in the Here Today notes (documentation 4.4) that Mr. Smith's widow sold the property to the Svane family in 1908. Ms. Levitt referred to Christie Svane's letter (documentation 2) which confirms that her grandfather purchased the property in 1908 both her father and herself grew up on it and it remained in the family for 104 years until 2012 when it was sold to Mr. Rogers. As stated in Ms. Svane's letter, the pine trees were already there when her grandparents purchased the property and this particular pine

was treasured and cared for by her family. Ms. Levitt stated that the 1880 photo you can't see the location of the pine tree. Ms. Levitt also stated that she lived on the property while the Svanes owned it and can personally attest to connection and respect they had for the property that is a time capsule of history. Ms. Levitt also states that also in the Here Today notes which are dated 1966, the researchers toured the property and stated that some of the trees and shrubs that George J. Smith planted on his estate from the cemeteries still surrounded the house. She said they also mentioned that the trees were "large and old." Ms. Levitt said the trees were on the property when the Svanes got the property in 1908. She stated the Svanes would clearly not have dreamed of cutting them down. She stated that the pine is the oldest and largest tree on the property and it is indisputable that this is one of the trees planted by George J. Smith from the historic cemetery from the second half of the 1800s and that is something that cannot be ignored.

Brin Bacon lives in San Francisco and frequently visits 46 Cook Street and has at multiple times per week for the past 4 years. She has personally witnessed the neighborhood's deep connection with the tree. She stated that the tree does not belong only to the person who owns the property but to also the residents including the surrounding neighborhoods including schools and how they all enjoy its grandeur. Mr. Rogers who has owned the property for only 3 years has never lived on it and is rarely seen on the property. Ms. Bacon stated that this was the first time she has seen Mr. Rogers in person and she has been visiting this property for many years, multiple times a week. Ms. Bacon asked why Mr. Rogers has the sole power to remove the tree which has created culture for neighborhood residents for decades.

James Birmingham grew up on Cook Street across the street from the trees. He stated that every night before he went to sleep he would look at the trees and he stated it was sad to see the others leave. He will be sad to see the tree gone.

Rex Worn lives 2 houses down from the pine. He explained when he was 5 and started kindergarten, he would walk over Lone Mountain to get to school and he could see the tree and that made him feel safer because he would know where his house was. He stated he learned in school that trees help us breathe. He stated he did not know why anyone would cut down a perfectly healthy tree that would help us breathe. Mr. Worn stated he (property owner) already cut down 3 trees and asked, "Isn't that enough?" Rex likes to see the hawks, crows, parrots and other birds in the tree.

Vanessa Rituolo spoke to say she lives 2 doors down on Cook Street and the two boys (James and Rex) appreciate the majestic Cook Pine that towers over their neighborhood both as a physical landmark of their home and a constant and beautiful landmark they have known ever since they became a member. Ms. Rituolo refers to Christine Svane's letter (Exhibit 2) which stated that the tree was a physical landmark for her and her siblings, one that her father said can be seen from Euclid. She read a letter from Linda Louie who lives 3 houses down on Cook Street. Ms. Louie feels that the tree is part of her garden as well. Ms. Rituolo stated that Ms. Louie states, "We love this tree, it makes wonderful music, it is beautiful to look at, it is a healthy tree. Do we need to take another healthy tree off this planet?" Ms. Rituolo referred to the petition she said has almost 200 signatures and that the names from Los Gatos and Palo Alto include her parents and her husband's parents who are regular visitors to their house and enjoy this tree constantly. She cited one petitioner who wrote, "I have always loved this tree. I used to live next door and have always admired its majestic branches. I hope San Francisco shows it values its history by preserving this tree." Ms. Rituolo stated that when the Cook Pine's sister tree was suddenly cut down in April, it was a shock to their community. She stated, "Let's not let the lack of sensitivity to this last remaining tree's shared history and culture lead to another removal. Ms. Rituolo added that she did not want to bring up development; and there are signs as she has seen an almost 7-ft. high fence erected since Mr. Rogers bought the property, boarded up windows on the sides of the building and an entire lot of razed trees. She stated that to not assume that development is imminent would probably be kind of ignorant and if the community members had implied that that is happening, it would be

understandable given what's happened to the property in the last few years. She added that any evil remarks were made by people online and they did not entice that. Ms. Rituolo said development happens in San Francisco but why not be creative around its own history. She asked to please vote to preserve the last of these 2 beautiful trees that were planted so many years ago. Ms. Rituolo stated that the tree continues to be appreciated through the generations by people who used to live at 46 Cook and for the surrounding neighborhood.

Richard Worn, 60 Cook St., lived there almost 20 years, showed photos of the trees as they used to be for "before" and "after" of April 19 and April 21. He spoke about carbon sequestration – capturing pollutants and -- and the trees providing oxygen and said now we have 50% or more of less oxygen. He says he cannot hear Geary Boulevard even though he lives half a block from it. He has seen the peregrine falcons, the famous wild parrots of San Francisco, mourning doves, blue jays, pigeons, mockingbirds; and raccoons have a trail. In the last meeting, there was a comment that the trees could not be seen from the street. He showed a picture of the tree from the street. He showed more shots from other vantage points. Mr. Worn stated that to say it is not prominent is kind of interesting. He shows a picture of the cemetery and said (pointing to a tree). He showed additional shots; and he brought up a point about trees bringing solace and he stated that there is a microclimate created by the tree.

A Committee member asked a question about when the cemetery picture was taken and the response from one of the presenters was that she believed it was the early 1900s.

Levi Levitt, expressed that he found it difficult to be present as he and his wife live at 46A Cook which Dale (Mr. Rogers) owns and he stated that if the Committee did not think this would drive some sort of wedge between his relationship, we should think again. Mr. Levitt stated that he admires and respects Dale and he's a good man and a great father and has been kind to them. Mr. Levitt appreciates living on this magnificent property. Mr. Levitt restated that it is difficult for him and his wife to present to this body. Mr. Levitt stated that as he listened to Dale's attorney speak, he began to hate himself a little bit because she did a good job of making them look pretty bad but that the petition signatures were collected locally within a 5-block radius of their community – wherever they came from, they were functioning as a part of the community. Mr. Levitt went into the rights of property usage which accompany privilege of ownership, are governed by laws, codes and regulations of any city and they have this process of landmarking specifically in identifying nice specimens of trees. He's almost not asking for the Committee to save the tree but to review it based on all of the Committee's research, by the evidence submitted before it and to make a decision. Mr. Levitt stated that the most poignant thing the pictures (Mr. Worn showed) demonstrate and that all of the packets and all of the work demonstrates to him that this tree is already a landmark in the community. He stated that now it is just waiting for official status to be recognized.

Larry Costello, Consulting Arborist, lives in SF in a neighborhood adjacent to Cook St., and can see part of the tree from downstairs in the house. He stated that he had reviewed the nomination report and a number of the Committee's evaluations and James McNair's report. Mr. Costello stated that there is confusion about the species. Mr. Costello stated that on the nomination report, it says *heterophylla*, on a number of the evaluation forms it says *heterophylla*, James McNair says it is *heterophylla* and as far as Mr. Costello concerned, he believes it is *heterophylla* until proven otherwise. Mr. Costello stated he is familiar with *heterophylla* and it looks like *heterophylla* and he reviewed it with the belief that it is *heterophylla*. He stated that based on that, it occurs in many places throughout the city and in many places where it should not such as in backyards and that it is really a park tree. Mr. Costello stated that the process is reserved for identifying and protecting remarkable trees, unique trees, one-of-a-kind trees; and this one does not qualify in his mind. He stated it is a beautiful tall tree but that it is not remarkable, not unique, they are in Golden Gate Park, in the Marina, in the Richmond. Mr. Costello is

not aware of historical significance and he leaves that to the Committee to decide whether it qualifies in that regard. Mr. Costello stated that from what he has heard, he questions that. Mr. Costello reiterated that this process is reserved for special types of trees and this one does not measure up in his mind. Mr. Costello stated that certainly none of us would recommend it as a backyard tree. It is way out of size for San Francisco back yards and the cone issue is significant as well. He stated he was available for any questions.

Nancy Wuerfel, 9 year of the Park Recreation Open Space Advisory Committee (PROSAC), stated she would like to support the landmarking of the Cook St. Norfolk Island Pine. Tree is already regarded as a landmark by the neighborhood, the birds, by anybody driving around the Jordan Park / Laurel Heights area. She stated that regardless of what variety it is (as she sees there is some dispute as to what it is), it is a magnificent tree and she will refer to it as a Norfolk Island pine). Ms. Wuerfel stated that in researching other beloved local trees, she came across a Norfolk Island pine on Sutter Street that was recommended at the Urban Forestry Council in 2009 for landmark status. She was impressed by the exuberance of the then Committee chair, Hillan, Member Vargas and Staff Coordinator Mei Ling Hui) over the virtues of that Sutter Street tree. Ms. Wuerfel stated that the following quotes of the 2009 meeting can easily apply to this nomination today. Ms. Wuerfel stated that Mr. Hillan remarked that the tree had classic form, was an outstanding large specimen and that it was recognizable from a distance and it contributes to the neighborhood character and to the community in a manner worth protecting. Ms. Wuerfel stated that Ms. Vargas noted that the tree was an outstanding natural feature of significant size, it provides San Francisco with valuable environmental benefits in the form of ecosystem services helping clean the air, reduce storm water loads, combat climate change through sequestering carbon and that few trees in the city are as large particularly in urban areas like Sutter St. and therefore as valuable from an environmental perspective. Ms. Wuerfel stated that Ms. Hui remarked that the tree was a good example of a species, tall and straight, tapering towards the top with branches well-spaced. She noted that the board of directors and property owners supported it being nominated only when it had demonstrated community support. Ms. Wuerfel said Ms. Hui concluded that the tree creates character for the surrounding area. The Council's resolution specified that the "tremendous size and excellent form are noteworthy" and that Norfolk Island pines of this stature are uncommon and because of the physical form -- height, trunk diameter and age characteristics -- of both the Sutter St. and Cook St. Norfolk Island pine trees, because they are very similar, Ms. Wuerfel believes the 2009 rationale for landmarking the Sutter Street tree applied equally to the Cook St. tree. Ms. Wuerfel stated that there is a much broader community support for this Norfolk Island pine. She stated the tree has historical connection to the development of this part of the Richmond. It fits the criteria developed for landmark status and for the pride of us all.

Myla <last name indiscernible>, stated that when she heard the other trees were cut down she was tremendously saddened. She said it is because of her old memories of the place because she used to live there. She stated that especially for their community, for San Francisco, for the neighbors, for the Richmond District, for the offspring, for the retails, for the oxygen, for the culture, for the heritage, for the history. She stated she did not think the Committee should think about the variety of the tree or all the technical situations in order to appreciate something that is so magnificent that people care so much for it. She stated that even if it is in the back yard it has been there for a hundred years and it is totally OK and not threatening anybody. She said the tree gives so much and has given so much through the years and she asks that with all her heart that you consider this. She stated she can see it as almost a member of her family and that it makes her heart so sad and people think about it like a piece of cement. Myla stated that it is not given the value that it really has. She stated that it has a history that is undeniable, a purpose that is undeniable and it is a love tree and that love for it is undeniable and she does not see why it has to go down. Myla stated that she just prays that people open your heart and

your eyes even if it not landmarked or not the right variety to open your heart to see what it means to so many people.

Patrick Krobogh, lives on the other side of Geary, stated the property is extraordinarily unique, one-of-a-kind property that has somehow managed to stay up to the time of ours. He stated that he had always thought it was one of San Francisco's absolute hidden treasures and he could see the tree and it is absolutely remarkable. He stated that development is inevitable but requests that as many characteristics that make this property unique should be retained and this tree is a big one.

Laura Money-Brodick, herbalist and botanist, visits the city because her cousins live there. She is pretty impacted by the decision to cut down really large trees. She stated it provides to the ecological community because trees serve as a hub. She commented on an earlier comment about trees such as this belong in a park but often we rely on trees as infrastructure that are scattered throughout the developed city in order to maintain migration routes for birds, and numerous things. She referred to the packet (Document #8) which is a letter written by Ravinder (Ravinder N. M. Sehgal, Ph.D., Associate Professor) from the Department of Biology at San Francisco State (University) about the loss of large old trees that leads to the loss of overall biodiversity. Ms. Money-Brodick felt the trees serve as a stopover point for raptors and other birds flying between the Presidio and Golden Gate Park. Ms. Money-Brodick states that she (Ravinder) is pointing to the fact that losing trees like this is leading to the loss of overall biodiversity and that biodiversity is strength.

Derrick Wright, stated that the space is unique and a special place when he visits his friends there. He feels the tree is very important in accessing that space. He stated that when he has visited there, he has never seen any significant fallen branches or cones and never heard anybody talk about that either. Mr. Wright stated that the tree is in the front lot of the separate lot. He also asked people to watch the video of residents who gave additional comments on the tree.

Committee member evaluations:

Jon Swae, interested in discussion about species debate but evaluated it as a *heterophylla*. It was interesting to hear Mr. Costello's confirmation of that. Mr. Swae consulted with the Historic Preservation staff at the Planning Department to figure out how they would evaluate a historic landscape feature. Mr. Swae stated that while the property and the home is not landmarked, it is identified as a historic resource and is capable of being landmarked and that potentially some of the landscape would be capable of falling into that landmark designation, too, if the property was proceeding with that landmark designation but as of now the property is not. Mr. Swae stated that they advised him to look at some of the resources that the nominators had identified, especially looking at the Here Today files. Mr. Swae stated that even looking at those, he was not able to get a strong feeling that those trees were from the actual property owner or from the Smith family so that influenced his feelings about the tree. In terms of rarity, Mr. Swae does not agree with Mr. Costello. Mr. Swae says these trees are not that common in the area and it is not exactly a rare species here. The video is touching to see how these trees play such an important role in our communities not only to those who live on the property but also to those who live all around. While the pine is a beautiful and mature tree that provides significant cultural value to neighbors and contributes to neighborhood character, in my assessment, the lack of species rarity and the lack of a proven historical association do not make a successful candidate for landmarking. Under the Public Works Code, the distinction of a landmark tree is reserved for trees of exceptional quality, rarity or historical significance. Mr. Swae feels it is extremely unfortunate the property owner has pursued to remove other large trees including possibly this tree which is a loss to the neighborhood and to the city. The Council is not able unfortunately to landmark each tree that faces a similar fate. Mr. Swae states that given the increasing frequency they are starting to see mature tree removals due to real estate speculation or other motivations, he would like to encourage the Council to gain a better understanding of the issues that are motivating property owners to remove these trees, what options

other than landmarking that we might be able to create for protecting trees on private property and how the city can support property owners in preserving these trees for our city and for the many ecological, cultural and economic benefits they provide.

Carla Short stated she assessed it as heterophylla and is not convinced that it is a Cook Pine although she stated she is certainly not an expert though she has attended a couple of seminars. She stated she does not see the distinguishing features but she does not think that it is quite as dry. That is not a huge important factor to her though it would be substantially less common if it were a Cook Pine. Ms. Short stated that she marked the tree as a common species in San Francisco but did note that trees of this size are certainly rare in general in San Francisco but not especially large for the species. For age, finds the neighbors' statement of the adjacent tree was over 120 years and certainly finds that plausible and that would be quite mature. It has good form, good live crown ratio, structure, nice radial ridging, good canopy vigor, overall, the tree condition was good. Ms. Short was interested in what Member Swae stated about the historic connection because that was something Ms. Short was uncertain about. Ms. Short stated that the property certainly appears to have some historic value. She is interested to see if the species came from the cemetery that provides for some possible historic significance if that can be confirmed but Ms. Short stated that she was not sure whether they will ever be able to confirm that. Ms. Short stated that it was definitely a prominent landscape feature. She feels that the neighborhood has moderate tree density, Cook Street has quite a few trees on it. She stated that it is visible from many areas of the public right-of-way, and neighboring streets. She felt it does not provide traffic-calming as it is a dead-end street. Ms. Short feels it is likely to provide habitat to many species, no erosion control, does not believe single trees provide wind or sound barrier although it is a large tree. Ms. Short is most influenced by the neighborhood appreciation which is very clear through the petitions of names and quite a few names do live in the area locally and having a large turnout today. Ms. Short states that it is very clear to her that the tree is well appreciated by the neighbors and the community. Ms. Short stated that she is uncomfortable with nominating trees in order to protect them because the intention behind the landmark process is not just to protect large trees. It is to acknowledge and recognize exceptional individual trees; and Ms. Short is very uncomfortable when there is a large tree which she certainly would not like to see removed and would definitely like to see this tree preserved. Ms. Short stated that she felt that John (Mr. Swae) did a very nice job of saying that we may need to look at another mechanism because we are not comfortable using the landmark process just as a means of protecting a tree when it otherwise does not meet the criteria, which does not mean that it is not extremely valuable and well appreciated. Ms. Short asked if this tree was a truly exceptional tree worthy of landmark <status (?) indiscernible> but she was struggling with that even though part of her would like to see it as a tree that we could landmark but that she is personally not quite there though it is very notable and she is moved by the neighborhood love and appreciation for the tree. I do not think I will be supporting for landmark status.

Dan Kida evaluated the tree as a Cook Pine. He stated it was so close that he would not be shocked if it was a Norfolk Island pine. Mr. Kida stated he thought that at the very least with the street named Cook that somebody thought about Captain Cook and they would be planting a Cook pine. Mr. Kida stated that he was not sure that would sway him either way. Mr. Kida said that would not sway him either way anyway. Mr. Kida said that in terms of rarity, if it were a Cook Pine, it would shift it more but he did not think significantly. For either one, he stated it was in the middle for the size for that type of tree. Mr. Kida went on to state it is a large tree for that neighborhood and in San Francisco; good looking, slight lean, some limbs have been limbed up in the past and has a little effect on the overall shape, good condition though uncomfortable evaluating tree health being on the other side of the fence so he looked for very obvious things and was very general in those comments. Mr. Kida stated he agreed with Jon (Mr. Swae) and Carla (Ms. Short) that what is really tough is whether there is a historic association with the tree and the property. Mr. Kida tends to think there is and that he wished we had more time to determine that for sure. Mr. Kida said the best vantage point is from Euclid as a prominent feature. Mr.

Kida does not notice it that much from Geary but from up on Euclid. Mr. Kida did not think the tree provided wind or sound barrier. Mr. Kida feels the same discomfort as John (Mr. Swae) and Carla (Ms. Short) that many of the trees that have come to Committee are because of some threat to the tree and he goes back and forth with that and it takes something like a perceived threat for people to realize that this is something that is important to them. Mr. Kida does not hold it against the nomination being initiated because of the threat of removal although that is not the purpose of the Committee. Mr. Kida stated that he was struck by the community support and if the petition is accurate, it looks like there are many from Cook St. and the surrounding neighborhood and the tree means a lot to them. So it's a very tough call, my support is with the nomination but it is very difficult tree to evaluate.

Malcolm Hillan stated that he agreed with Larry (Mr. Costello) that this was a mis-use of the landmark tree ordinance. He stated that it is used as a tree protection measure rather than something that was undertaken in the first place to landmark a landmark-worthy tree. Mr. Hillan said it is not rare in San Francisco at all, rather common. It is a large tree. Mr. Hillan stated he sees many Norfolk Island Pines throughout the city of this stature; and in fact, and as a simple exercise on his drive back home from looking at this tree, he casually looked around without altering his route, he stated he saw at least 10 Norfolk Island pines of this stature or greater on his drive home and he was not going into Pacific Heights or other neighborhoods where there are some large ones. It is a fine tree and very representative of the species. Mr. Hillan stated that there seems to be enough uncertainty on the species question that perhaps there is a way to continue this in some way to look more closely at this issue because if indeed it is a Cook Pine and a connection between the placement of the tree and the naming of that street, that combined with perhaps rarity of Cook Pine in San Francisco. Mr. Hillan stated that this is something that is worth looking into. Mr. Hillan stated that the definitive ascendant branches that give that rocket-shape appearance to the Cook Pine, I did not see it from one angle from another angle I do. From Geary, they do not appear ascendant at all but from some of the straight-on photographs looking into the backyard they have a little bit more of that ascendant appearance. It leaves a big question in Mr. Hillan's mind. Mr. Hillan stated that the biggest question, after visiting the property, the neighbors represented the house as being of historic noteworthiness and that it was somehow certified as historic. Mr. Hillan stated he had not seen any documentation of that at this meeting and so Mr. Hillan's strongest support for this tree as being remarkable is tied to this historic structure and the overall history surrounding the planting related to that. Mr. Hillan stated that it is clear from the picture of the palms that were removed – that all 4 of those plants – were in relationship to the house – they framed the house -- and stated that if this tree is the only remaining evidence of that, the last one, feels it makes it more landmarkable. Mr. Hillan stated that for environmental, partial but since it is the only really tall tree in the immediate neighborhood that is left, he can see as a de facto landmark. Cultural, obviously the neighbors support the tree. Mr. Hillan restated that he has a problem with the neighbors reacting to rather than for landmark status.

Hillson stated she has a lot of historical information because she lives in Jordan Park. She then went on to the category of rarity: whether it is rare species in the city or other geographic region. Ms. Hillson stated that rarity based on Norfolk Island Pine is rare in native country near Australia, Norfolk Island; in San Francisco on the urbanforest map, there are 16 exist but it is 15 since one is incorrectly designated as being Norfolk Island Pine; the IUCN (International Union for the Conservation of Nature) lists the species on the Red List, it's in declining habitat in Australia; the Royal Botanic Garden in Melbourne states it is a "rare and endangered Australian native." Whether it is Cook or Norfolk Island, there is some rarity depending on how you look at it. Ms. Hillson was shown a roughly 10-inch long by 3-in. diameter mature female cone with seeds and male cones which show up on these trees only after they are at least 40 years old. I was also shown a tree trunk cutting with the rings that the neighbors counted and they counted up to 120 years old. The rings were not half-inch spaced, they were more like 1/3-inch apart at most so maybe the growth rate was dependent on temperature. She stated that

this tree is large, significantly advanced in age; for "distinguished form," truly majestic – trees that were landmarked in past were deemed majestic and they were not all unique. Ms. Hillson stated that the only unique one is the *arctostaphylos xxx* which is still unknown and everything else has a partner somewhere in the city. Ms. Hillson stated she marked in the affirmative for "historical" because of the information regarding Captain James Cook on his voyage to the south in '74 on the *HMS Resolution* and found the Norfolk Island trees, which are not really pines. Whether it is the 46 Cook or 46A Cook St. property, Ms. Hillson stated that she refers to it as the "46 Cook Street" property which was originally about 75-feet wide and the McInerney judgements for the Western Addition also shows the property as a little over 75-feet wide lot. Ms. Hillson said the tree is located in the side yard of this lot towards the rear. Ms. Hillson referred to the historic photo shown by the attorney earlier, the Bancroft library photo of 1885. Ms. Hillson talked about George Smith as the original inhabitant of the property, born in New York and served in the Union Army during the Civil War. He had a business in painting and decorating, a member of the Independent Order of Odd Fellows (IOOF), Yerba Buena Lodge; with many delegations attending when he died. Ms. Hillson stated that Mr. Smith had the means to have a large lot with a main fully detached house and a rear carriage house in the southeast corner of the lot and room for the horse and buggy to go down the drive on the south side. Ms. Hillson looked at the directories from 1871 through 1897 from the Crocker-Langley and he did reside at 46 Cook. Ms. Hillson stated that the IOOF was a cultural fraternal society that took care of its members with mutual benefits. The first lodge in California was dedicated on Sept. 9, 1849. It had a mighty role in building the city of San Francisco, a very powerful group. The Oddfellowship practice came from the United Kingdom. One of the famous members was Samuel Brannan who yelled out, "Gold, gold! Gold in the American River!," and the gold rush was on in 1849. Ms. Hillson stated that he made enough money from the gold rush selling a lot of things to donate 17 acres of land to start the Odd Fellows Cemetery. She stated there were many good works that the IOOF also did. The 1870 house is one of the primary dwellings in that area and there weren't that many of the dwellings shown on a map west of Divisadero so this shows the history of the early settlement patterns. Ms. Hillson talks about the "Big Four" cemeteries – Laurel Hill, Calvary, Masonic and Odd Fellows. She has pictures in her packet about the Odd Fellows buildings and George J. Smith and his being awarded \$38,000 and other things as well. She mentioned that there is a picture in the Richmond book that shows a Norfolk Island Pine in the cemetery.

Ms. Hui gave her Staff Rebuttal. She stated that removal is not a criteria. Whether or not the tree if it is not landmarked, being removed is not a criteria. In regards to having pictures of the tree, site visits were performed from visiting the neighbor's property from that side. Ms. Hui stated that the Council has had trees with indeterminate species and with what species have changed over time and it is not uncommon and it is not an issue if it turns out to be one or the other in terms of process.

No Property Owner Rebuttal.

Committee discussion and action: Ms. Short was intrigued by Malcolm's (Mr. Hillan's) question about trying to get a little more information about getting a definitive determination even though we have a few well-recognized specialists who do not necessarily agree on the species, it may affect the rarity of the tree. Ms. Short is also intrigued by the historic connection and if there were a stronger connection there she would be more likely to support it on those bases. Ms. Short also stated again that it is a really nice large tree. Ms. Short also would like to know what route Malcolm (Mr. Hillan) drove because she looks around the city a lot and you do see the occasional very large pine popping up in the landscape, but 10? Ms. Short stated that she feels she knows where probably 6 of them are in the city. Ms. Short asked if the Committee Chair would consider a continuation with some definite timeframe to try to investigate these two issues a little bit further.

Ms. Hui stated that the Council had to respond by a definite date so she looked for the cutoff date.

Ms. Hillson asked about the pictures with the old cars in the packet with the petitions. The neighbor responded that the pictures came from the SF Assessor's negative library collection on the 6<sup>th</sup> Floor of the library and they are between 1946 and 1951.

Mr. Swae also stated that he looked at a historic aerial from 1938 and showed it. He stated that the trees are there as well.

Ms. Hillson stated that prior to the meeting, she received no reports possibly because people were confused on some things and they were still looking and seeing volume of paper going across the table. Ms. Hillson stated she feels there needs to be more research done on the species and also on the historic and unless you pin those two things down and at least for Malcolm (Mr. Hillan) it was historical, it is going to be tough to make a decision. Ms. Hillson stated she is in the Community Seat on the Council and wanted to ensure the Committee hears everything so it does not decide on the lack of information. She stated that she does not want to prolong this any longer than we have to. Ms. Hillson questioned the deadline to respond as she believed the emergency order date from DPW was July 2.

Mr. Kida stated that he was open to taking more time but his concern was and he looked to Jon (Mr. Swae) to ask if that information was going to be available to us, if there is a difference in taking 2 years or a month. He stated if the information is not there, it's not there but he is definitely open to looking into it to be sure.

Mr. Swae stated the Committee has new information and new photos that the Committee has not seen and we could consult with Preservation staff (Planning Department) to review the materials in a more thorough way as it seemed a little rushed to process all the information for this hearing.

Mr. Hillan stated it was not clear from both sides, that there is some historic documentation but it is not all that clear. Mr. Hillan believed he could still vote today based on how well or has not been presented by the various parties but the question about species to him perhaps warrants an extra bit of time to consult with somebody who has greater familiarity with that particular genus. Mr. Hillan suggested somebody perhaps from the Academy of Sciences.

Ms. Short stated she contacted somebody but did not hear back in time for this hearing but she also was not sure he would consider himself a specialist either.

Ms. Hui stated that the Council must respond by October 30<sup>th</sup>. The full Council meets on September 25<sup>th</sup> and October 27<sup>th</sup>.

Mr. Hillan moved to continue the hearing and seconded by Mr. Swae. On the motion to continue the hearing for the species and historical association, voted by roll call unanimously to October 1, 2015.

**4. New Business / Future Agenda Items:** Members of the public may address the Committee on matters that are within the Committee's jurisdiction and are not on today's agenda.

Chair Hillson suggested to put the topic of general process with no explanatory documents. How things brought from the public to the next step, etc. especially in light of what occurred at Planning Commission to clarify things. Who in Planning gets it? How is that routed through?

Ms. Short also mentioned in the ordinance refers to commissions or boards that no longer exist -- part of why this was so confusing. This could be a start and if we need to continue to another meeting, that will be fine.

Mr. Hillan stated that what Jon (Mr. Swae) brought up that may need to be brought up maybe not Committee but full Council the issue of tree protection and tree preservation is something that the Urban Forestry Council needs to weigh in on to develop perhaps some recommendations. Mr. Hillan states that if the Landmark Ordinance keeps on being used in this way, it can be attacked and invalidated because

of the way it is being mis-used; and the way property owners are being impacted by the mis-use of this ordinance. Mr. Hillan stated that he was afraid of that. Mr. Hillan went on to state that we need to be proactive in developing. Mr. Hillan was reminded of commenting on items not on the agenda. Mr. Hillan went on to say that it is something that he is concerned about and that the Committee needs to address it.

Nancy Wuerfel supports having an open conversation on process. She stated she has read the ordinance and that it is outdated on some levels. The procedures from the point of view from the members of the public were never dealt with. Ms. Wuerfel stated that it would be a public service to have an interpretation of what could be very simple clear language without reference to a whole bunch of stuff that speaks to the people and would even speak to members of this Committee. She stated there could be 25 words or less on what is a landmark tree in terms of why we are trying to do this. If there was a document, some of the questions could be answered themselves without having to ask Mei Ling. There is no process for the member of the public to follow on a procedural level. Ms. Wuerfel also stated that there could be a discussion as a separate agenda item in a separate agenda in the future agenda on the use of "810" on how to handle trees that are worthy but have a different avenue to take but that is a very large topic.

Jen Levitt stated that there was always believed the tree and the property should be landmarked but that they just have not done it. Ms. Levitt stated that the process was not as clear. She stated the this was brought forward not because they thought the tree could be threatened but that they have always felt this way.

Myla asked about making the property a historical landmark. Chair Hillson replied that was in the purview of the Planning Department.

**5. Public Comment.** No further public comment.

**6. Adjournment.** The Landmark Tree Committee meeting adjourned at 5:51 p.m.

Minutes written and submitted by Chair Hillson (Aug. 10, 2015).

Copies of explanatory documents are available to the public at (1) the Department of Environment, 1455 Market Street, Suite 1200, San Francisco, California 94103 between the hours of 9 a.m. and 5 p.m., (2) or may be available at the Landmark Tree Committee Meeting website <http://www.sfenvironment.org/about/taskforce/urban-forestry-council/agendas> posted with each agenda or meeting minutes, or 3) upon request to the Council Secretary at the above address, telephone number 415-355-3709, or via e-mail at [Monica.Fish@sfgov.org](mailto:Monica.Fish@sfgov.org). Audio recordings of all meetings can be accessed at the following website <https://sites.google.com/a/sfenvironment.org/commission/urban-forestry-council/urban-forestry-council-and-committee-meeting-audios>.