

Amendment of the Whole  
March 5, 2007.

FILE NO. 070126

ORDINANCE NO.

1 [Wild parrots of Telegraph Hill – Tree preservation adjacent to 233 Greenwich Street.]

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3 **Ordinance waiving certain provisions of Public Works Code Section 809 to assume**  
4 **responsibility for the preservation of two (2) Monterey Cypress trees adjacent to 233**  
5 **Greenwich Street (Assessor's Block 85, Lot 32) that provide habitat for the wild parrots**  
6 **of Telegraph Hill, including pruning and removal as set forth herein,; imposing**  
7 **specified tree replanting requirements on the property owner of 233 Greenwich Street**  
8 **in furtherance of Public Works Code Section 809's tree replacement provisions;**  
9 **authorizing the Director of Public Works to enter into a sole source agreement with Ted**  
10 **Kipping, Tree Shapers, LLC, for professional services relating to the pruning of said**  
11 **the trees; accepting a gift from the Northeast San Francisco Conservancy to offset the**  
12 **cost of pruning the trees; and authorizing official acts in connection thereto.**

13 Note: Additions are *single-underline italics Times New Roman*;  
14 deletions are *strikethrough italics Times New Roman*.  
15 Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. Findings.

18 (a) The documentary and book entitled "The Wild Parrots of Telegraph Hill" brought  
19 national and international attention to the unique parrot population of Telegraph Hill and the  
20 habitat, protection, and foraging opportunities that certain trees provide in this location.

21 (b) These wild parrots have become a valued aspect of the identity and culture of the  
22 Telegraph Hill neighborhood, bringing curiosity and joy to both residents and visitors to San  
23 Francisco.

24 (c) The parrots' presence has helped to expand the public's interest in urban wildlife  
25 and to engage local residents in preserving the urban forest of Telegraph Hill.

1 (d) The two (2) remaining Monterey Cypress trees adjacent to 233 Greenwich Street  
2 provide valuable habitat to the wild parrots and other wildlife on Telegraph Hill; however, the  
3 current condition of these trees require immediate steps to both reduce the danger of their  
4 failure from weather and other natural causes and to replace their habitat value with new  
5 trees.

6 (e) The property owners of 233 Greenwich Street (the "property owner") (Assessor's  
7 Block 85, Lot 32) also own the adjacent vacant property where the subject Monterey Cypress  
8 trees are located (~~a~~Assessor's Block 85, Lot 33). The property owner, the Northeast San  
9 Francisco Conservancy, and City representatives have worked tirelessly to reach a  
10 compromise that will both reduce dangers facing the property owner, neighbors, and the  
11 general public and allow for the preservation and replacement of this valuable habitat.

12 (f) Based on site visits, analysis as set forth in a December 9, 2005 letter from Ted  
13 Kipping of Tree Shapers, LLC, and approaching winter conditions, the Director of the  
14 Department of Public Works (the "Director") has determined, pursuant to Public Works Code  
15 Section 809 and as set forth in DPW Order No. 176,748, that major pruning and dimensional  
16 reduction of these trees ~~consistent with International Society of Arboriculture standards~~ is  
17 necessary to avoid characterization of said trees as hazard trees, which are defined in Public  
18 Works Code Section 802(o). A copy of said letter and the DPW Order are ~~is~~ on file with the  
19 Clerk of the Board of Supervisors in File No. 070126 and is ~~are~~ incorporated herein by  
20 reference.

21 (g) After communication with the property owner of 233 Greenwich Street, the Director  
22 has determined that said owner proposes immediate removal of the trees instead of major  
23 pruning and dimensional reduction. In order to temporarily preserve the trees and benefit the  
24 parrots in the near term, the Director has proposed to combine major pruning with  
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1 replacement tree plantings and, once the replacement plantings have become established, to  
2 remove the Monterey Cypress trees. Due to the unique circumstances of this site, in  
3 furtherance of the abatement process set forth in Public Works Code Section 809, and in lieu  
4 of the lien procedures in Section 809 the Director recommends that the City assume costs  
5 associated with the tree pruning, eventual tree removal, and liability for the trees during this  
6 time. In exchange, the Director recommends that the property owner install and assume all  
7 costs associated with replacement plantings in accordance with plans subject to the Director's  
8 approval. Said plan shall include up to six (6) replacement trees and such trees shall be  
9 located on the western side of the vacant property (Assessor's Block 85, Lot 33) within the  
10 property's setback area. The replacement plantings shall include, or accomplish a similar  
11 habitat replacement as, the following general palette of plant materials: a suitable tree to  
12 serve as a look out or sentry tree, such as Norfolk Island Pine (*Araucaria heterophylla*),  
13 Canary Island Pine (*Pinus canariensis*), or Lemon-scented Eucalyptus (*Eucalyptus citriodora*);  
14 Japanese Stewartia, Golden Chain, Coffeeberry (*Rhamnus californica*), California Holly  
15 (*Heteromeles arbutifolia*), Pyrocanthus (*Pyrocantha sp.*), Hawthorne (*Crataegus*  
16 *phaenopyrum*), or any of the plant materials recommended in Mr. Kipping's December 9, 2005  
17 letter, or similar plant materials to provide shelter, food, and nectar for the parrots and other  
18 birds on Telegraph Hill. Such plantings shall occur within three (3) months of the conclusion  
19 of the pruning work. Said recommendations are contained in the abovementioned DPW  
20 Order.

21 (h) Given the important role of these trees in the lives of the wild parrots of Telegraph  
22 Hill and the benefits to the public at large in temporarily preserving said trees, the City  
23 considers it in the public interest to assist in facilitating the trees' preservation for a period of  
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1 at least three (3) years while replacement trees can be grown that provide suitable habitat for  
2 the parrots and other wildlife.

3 Section 2. Urban Forestry Ordinance. This Section of the Ordinance is uncodified.

4 (a) Notwithstanding the requirements of Public Works Code Section 809, the Board  
5 hereby authorizes the Director of the Department of Public Works to assume the costs  
6 associated with major tree pruning and dimensional reduction of the two (2) Monterey  
7 Cypress trees on Assessor's Block 85, Lot 33, which is adjacent to 233 Greenwich Street, as  
8 described above, and the removal of said trees three (3) years from the effective date of this  
9 legislation or longer if extended as provided below. For purposes of this legislation, all  
10 references to tree removal shall mean removal of the subject trees to the ground. Further, the  
11 Board, on behalf of the City and County of San Francisco, agrees to assume liability for any  
12 and all claims related to said trees, including all City or City-contracted work on the trees,  
13 beginning on the ~~effective date of this legislation~~ start date of work associated with the tree  
14 pruning and terminating automatically after the Department of Public Works ("DPW") removes  
15 the trees and disposes of the tree debris at an appropriate off-site location; provided,  
16 however, that the provisions of this legislation may be extended in six (6) month increments  
17 beyond the initial term if agreed to in writing by the property owner and the Director of the  
18 Department of Public Works (the "Director").

19 (b) In exchange for the City's assumption of the abovementioned obligations and in  
20 furtherance of the abatement provisions of Public Works Code Section 809, the property  
21 owner of 233 Greenwich shall install and assume the costs of replacement plantings on  
22 Assessor's Block 85, Lot 33 as specified above.

23 (c) Notwithstanding the term of this legislation as set forth above, the Director, in the  
24 exercise of his or her authority under Public Works Code Section 809, may determine at any  
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1 time that said trees become hazard trees and require further abatement or removal in a period  
2 shorter than that specified. If the Director makes such a determination, DPW shall assume all  
3 costs associated with such work. If the Director determines that the trees must be removed  
4 less than three (3) years from the effective date of this legislation, the terms of this legislation  
5 shall terminate automatically after DPW has removed the trees and disposed of the tree  
6 debris at an appropriate off-site location. If the trees fail during the term of this legislation,  
7 DPW shall remove the trees or any remaining portions of such trees, dispose of the debris at  
8 an appropriate off-site location, and assume any costs associated with these actions. Should  
9 this occur, the legislation shall terminate automatically after DPW has removed the trees and  
10 disposed of the debris at an appropriate off-site location.

11 Section 3. Sole Source Contract. (a) The two remaining Monterey Cypress trees  
12 adjacent to 233 Greenwich Street are facing imminent decline and possible failure unless the  
13 situation is properly abated. The trees are a critical component in the ecosystem of the wild  
14 parrots of Telegraph Hill.

15 (b) For approximately eighteen (18) months, City representatives, the property owner,  
16 and the NESFC have relied upon the advice and input of Ted Kipping of Tree Shapers LLC, a  
17 certified arborist, who designed a tree pruning plan to address the problem affecting these  
18 trees. Mr. Kipping developed this plan after numerous site visits to 233 Greenwich Street and  
19 Assessor's Block 85, Lot 33, extensive investigation of the trees, and discussions with all  
20 affected parties. In doing so, Mr. Kipping developed a thorough knowledge of the site, the  
21 trees' conditions, and the unique relationship between the parrots and the subject trees.

22 (c) With winter climatic conditions approaching and the trees' current condition, the  
23 pruning project must proceed immediately or the trees or portions thereof may fail causing  
24 potential personal and property damage. Procuring a new professional contractor at this late  
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1 stage would be a waste of time and public funds. Given his expertise, familiarity with the site  
2 and site conditions, and national recognition in the practice of arboriculture, Mr. Kipping is  
3 uniquely qualified to perform the tree pruning services for the Monterey Cypress trees on  
4 Assessor's Block 85, Lot 33.

5 (d) The San Francisco Board of Supervisors hereby determines that it is in the best  
6 interests of the City and County of San Francisco for Ted Kipping of Tree Shapers LLC, to  
7 undertake the tree pruning project adjacent to 233 Greenwich Street, as sole source, on  
8 behalf of the City's Department of Public Works.

9 (e) The competitive procurement requirements of San Francisco Administrative Code  
10 Chapter 6 are hereby waived with respect to Ted Kipping, Tree Shapers LLC, for the sole  
11 purpose of the tree pruning project adjacent to 233 Greenwich Street.

12 (f) The Board of Supervisors authorizes the Director to enter into the abovementioned  
13 personal services contract.

14 Section 4. Gift Acceptance. The Board of Supervisors acknowledges the Northeast  
15 San Francisco Conservancy's commitment to make a generous gift of funds toward the tree  
16 pruning work of the subject Monterey Cypress trees adjacent to 233 Greenwich Street. A  
17 letter from the Conservancy making such offer is on file with the Clerk of the Board of  
18 Supervisors in File No. 070126 and is incorporated herein by reference. The Board accepts  
19 such gift of funds on behalf of the City and County of San Francisco and authorizes the  
20 Director of Public Works to apply such funds to offset any City costs incurred related to the  
21 abovementioned pruning work of the Monterey Cypress trees adjacent to 233 Greenwich  
22 Street.

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1 APPROVED AS TO FORM:  
2 DENNIS J. HERRERA, City Attorney

3 By: \_\_\_\_\_  
4 John D. Malamut  
5 Deputy City Attorney

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