

# COMMUNITY CONCERNS ADDRESSED BY MAKENA SETTLEMENT AGREEMENT

July 11, 2017:MTF

## FOR ALL 1,754 ACRES of ATC MAKENA LANDS: FEWER UNITS AND LOWER DENSITY

- Unit count drops from 158 to 134 on 47 acres near Makena Landing. If additional cultural sites are deemed worthy of preservation, that may reduce the number of units further.
- 600-acres upper Makena Lands -limited to 38 ag lots (2 farm dwellings each). If zoning were to have changed to rural or urban, there could be 100s of lots
- Overall units allowed on 1,754 acres owned by ATC Makena Resort is 1,100, plus any affordable housing (around 160 units). Zoning + Community Plan would have allowed 1,400 to 3,000 units.
- No additional ohana's or CPR allowed on single-family lots on 47 acre SMA area.
- No redevelopment of any golf course lands for residential or commercial. Very important, because of trend to build condos on golf courses.

## VIEW PLANES

- Three multi-story condo buildings ( 2: 45 ft high and 1: 35 ft high) removed from 47 acres along Makena Alanui

## WATER QUALITY

- ATC Makena will switch to AECOS for water quality testing and impacts of well pumping.
- Plaintiffs can review testing protocols and will be provided with reports.
- Plaintiffs consulted on Master drainage planning for ATC Makena lands.
- Keyline design of swales designed by permaculture consultant approved by plaintiffs will be installed prior to any grading /grubbing in lands mauka of 47 acres.
- ATC agrees to reserve capacity in their sewage treatment plant to convert unsewered residences in Makena from cesspool to sewer hookups- including Makena State Park. This will reduce seepage into ocean.
- All buildings on 47 acres will have roof-top rain gardens to decrease runoff
- Settlement requires all drainage mitigations proposed in FEA to be implemented, including discharge monitoring

## CULTURAL SITES AND PRESERVATION

- 22 sites of 36 will be preserved, including all stone walls. Previously, only 7 sites were to be preserved.
- 8 of remaining 14 sites will have data recovery and be avoided if at all possible
- Much more of the complex of sites on ATC Land just mauka of Kalani heiau will be preserved (3 preserved before: 9 now)
- 3 condo buildings and 8 single family lots removed or relocated to protect undocumented archeological sites throughout the 47 acres above Makena beach area.
- Plaintiffs have right to tour areas on 47 acres where lots were removed or relocated with archaeologist Theresa Donham and determine if undocumented sites are adequately protected by new configurations, and whether additional testing is needed in midden scatter areas to determine presence of subsurface features.
- Plaintiffs have right to site visits, early access to future preservation Plans/AIS studies etc. on all of the ATC lands and the ability to consult and comment on what is recorded and preserved.
- Plaintiffs have the right to visit the existing Hotel site with Theresa Donham to determine if additional testing is needed after demolition of the hotel structure, in order to locate remains of sites destroyed during original hotel construction
- Plaintiffs will be consulted on any future Preservation Plans for the ATC lands including 47 acres above Landing
- Protocols set to protect line of sight to ocean/ Haleakalā and the north star from all ceremonial structures on and off the property
- Theresa Donham will do re-do archaeology for 47 acres.
- Plaintiffs will be consulted about any planting planned around cultural site areas on the 47-acre site, Hotel parcel, and on M2-M3 affordable housing parcels
- Plaintiffs will continue to give input on acceptable view corridors for historic ceremonial sites and can ENFORCE view planes

### CULTURAL ACCESS (previously ATC recognized NO cultural use of 47 acres)

- Access and archaeological research will be permitted on portions of ATC lands as agreed by Plaintiffs and ATC.
- ATC will pay for a “Cultural Manager” for 47 acres to be hired by an organization with good track record of cultural management. Manager will conduct educational activities; mālama the sites; and promote respectful use of the cultural areas.
- Cultural practice is recognized on the Mākena Lands, with regular access for plaintiffs and cultural practitioners.
- PASH rights remain in force and cannot be impacted by ATC’s permitted cultural access

### HISTORIC ROADS/TRAILS

- Mauka-Makai: Old Makena-Ulupalakua Rd. will be re-opened as an historic trail for hiking/cultural access: 13 ft wide with 8 ft of trail and 2.5 ft wide native plant buffers on both sides. Will follow historic alignment most of way except in Parcel M-5 where route will change to avoid building “D.” Makena-Ulupalakua road joins with Kalama-Kanaio road in Wailea 670 to create a continuous trail system for cultural access, Makahiki celebrations etc. (Old Makena-Ulupalakua road has been closed to public since 1985, - over 30 years)
- Mauka-Makai: ‘Aupuni Road will be re-established from across from Keawalai church to Ka`eo boundary wall. 13 ft wide with 8 ft of trail, and 2.5 ft wide native plant buffers on both sides. ‘Aupuni road/trail has been closed to public for over 100 years.
- Maluaka coastal trail will be relocated inland as necessary if sea level rises to levels that impact safe use in the future.

### NATIVE PLANT PRESERVES ON ATC MAKENA LANDS

- 100 acre native wiliwili habitat preserve will be established and protected by a conservation easement in the 600 acre mauka ATC Makena Parcel prior to any issuance of tentative subdivision approval for the 38 ag lots (likely 2018-19)
- An additional native wiliwili forest preserve will be established on the undeveloped lands surrounding the north golf course and other undeveloped areas. Size will be determined by plaintiffs and Bob Hobdy visiting the area prior to issuance of Final EIS for the area (likely 2021), evaluating the potential preserve locales and recommending preserve areas.

### EXPANDED BEACH PARK AT MAKENA LANDING

- Formal “footprint” of the 1.29 acre existing Makena Landing Beach Park will be expanded by adding TMK No. (2) 2-1-007:093 (0.455 acre parcel) and TMK No. (2) 2-1-007:092 (0.42 acre parcel) creating and maintaining a 2.165 acre park area.

### BEACH PARKING:

- ATC will provide shuttle service to beaches for homeowners to decrease beach parking needs of future homeowners
- ATC will restrict parking in public beach stalls (including new stalls) provided by workmen, ATC employees during work hours and residents of ATC Makena projects except if access is needed for parking lot maintenance
- There will be no net loss of the 42 informal parking spaces now available along Honoiki and Old Makena Rd. 31 new spaces will be created along Old Makena-Keoneoio and Honoiki roads to replace the informal spaces, and 11 more will be added in locations to be determined.
- Existing 42 informal parking spaces along Honoiki and Old Makena Rd. will remain all through construction activities at ATC Makena’s 47 acre site.
- 40 additional off-site parking spaces and free shuttle service for the public to Makena Landing, Maluaka Park, and Makena State Park will be provided as future projects are proposed on other ATC Makena Lands. This can expand to another 25 spaces if deemed needed by both parties in future years.

COMMUNITY BENEFIT FUND

Fund to be directed by five (5) members. The Board shall be initially comprised of one representative of Ho'oponopono O Makena, one representative of ATC, and three members of the community mutually agreed upon by Plaintiffs and ATC.

- Funding: \$135,000 1st installment; \$152,000 2nd installment; \$76,000 3rd installment. Thereafter \$125/ housing unit each year.
- Funds available for Makena area projects. Examples: Building a traditional Hale for cultural activities; restoration of sites, potential Hawaiian immersion school, educational programs for children visiting sites.

EIS REVIEW

- A new Master Plan will be prepared for undeveloped ATC Makena Lands by July 2018
- Full EIS will be initiated for all the lands mauka of Makena Alanui by 30 days after approval of 600 acre mauka ag subdivision. The 47-acres above Makena Landing, former Makena Hotel site, 600 acres of mauka ag lands and the developed golf course will all be included in the EIS as described below:

“The parties agree to disagree on whether the subdivision and development of the Ag Area, or any of ATC's Maintenance Work within the Maintenance Area, triggers the preparation of the Master Plan EIS. Nevertheless, ATC's Master Plan EIS shall take into account, as background information, the then-existing and anticipated impacts of the 38-lot Ag Area, the on-going activities within the Maintenance Area, the Reduced MSB Project, the anticipated impacts from the affordable housing to be developed on the M-2 & M-3 Property, and the Additional Affordable Housing. With respect to the Maintenance Area, ATC's Master Plan EIS will incorporate relevant archaeological and cultural information provided in those final studies known to ATC and existing as of the date of this Agreement.”

AFFORDABLE HOUSING

- 60 affordable housing units (32 for no credit and 28 that count towards affordable housing requirements) will be constructed on ATC Makena Parcels M-2/M-3 after an EIS is completed for the ATC Makena mauka lands. These will be a benefit attached to development of 47-acres above Makena Landing, and will be built prior to other mauka developments.
- The 60 affordable units will be priced at 100% of HUD or lower and will remain affordable in perpetuity. They will be built by a non-profit affordable housing developer on land donated by ATC Makena.
- For these affordable houses ATC Makena will provide the infrastructure (utilities, sewage, roads, etc.)
- Affordable housing requirements for the project's potential 850 additional dwelling units (212 affordables would be required) will have at least 50% of the required units built on site (estimated around 78 units plus the 32 “uncredited” units) and the remainder (106 units) will be built in the Kihei-Makena Community Planning District.

OTHER:

- Plaintiffs have the right to enforce the settlement terms and agreements, since the settlement conditions are attached to the land and not just the ATC Makena corporation or a subsequent HOA.
- 44 conditions of zoning attached to the Makena lands rezoned in 2008 by Maui County Council will remain binding on ATC and its successor owners.
- All representations made by ATC Makena to the Maui Planning Commission are required to be followed.