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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
The Honorable H. Steven DeBerry, IV, Circuit Court Judge

Case No. 2022-CP-07-02351
Appellate Case No. 2025-001553

Christina Olson Gecy, Trustee of the Battery Retreat Revocable
Trust dated May 28, 2021, and any amendments thereto,Appellant,

vs.

Integra Wharf at Battery Creek, LLC; B. McNeal Partnership, L.P.;
Gasque & Associates, Inc.; and Fifth Third Bank, N.A. Defendants,

Of Which Integra Wharf at Battery Creek, LLC, and Gasque &
Associates, Inc. are the Respondents.

INITIAL BRIEF OF RESPONDENT
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INTEGRA WHARF AT BATTERY
CREEK, LLC**

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COUNTERSTATEMENT OF ISSUES ON APPEAL

- I. Whether the circuit court correctly held that the 1984 Easement expressly authorizes relocation of the access route.
- II. Whether the circuit court correctly applied the relocation standard established by the 1984 Easement rather than the different common-law standard advanced by Gecy for the first time on appeal.
- III. Whether Gecy presented evidence creating a genuine issue of material fact that the relocated roadway was not the “substitute, usable, and well maintained roadway” required by the 1984 Easement.
- IV. Whether Gecy identified evidence that the location of the relocated roadway materially impaired her easement rights under the common-law and relocation standards upon which she relies.
- V. Whether the circuit court correctly granted summary judgment on Gecy’s claim of a prescriptive easement, given that the 1984 Easement established permissive use and Gecy failed to establish the elements of a prescriptive easement.
- VI. Whether the circuit court properly granted summary judgment on Gecy’s claim of an exclusive easement where Gecy admitted that any easement rights were nonexclusive and abandoned her theory that the 1984 Easement contained a grant of exclusivity.
- VII. Whether the circuit court properly granted summary judgment on Gecy’s request for permanent injunctive relief where Gecy failed to establish any violation of a protected easement right.
- VIII. Whether the circuit court properly excluded and disregarded affidavit testimony that failed to satisfy the admissibility and competency requirements of Rule 56(e), SCRPC.

STATEMENT OF THE CASE

This appeal arises from Respondent Integra Wharf at Battery Creek, LLC (“Integra”) relocating—pursuant to a written easement executed and recorded in 1984—an access roadway connecting Roberta Lane and the Belleview Bluff subdivision to South Carolina Highway 280. Appellant Christina Olson Gecy, Trustee of the Battery Retreat Revocable Trust dated May 28, 2021 (“Gecy”), challenged the relocation of the access route by Integra, and asserted claims for

declaratory and injunctive relief, damages, and a prescriptive easement. The circuit court granted summary judgment to Integra on certain claims and granted Integra's motion to strike inadmissible portions of affidavits submitted in opposition to summary judgment. Integra ultimately did not seek summary judgment on Gecy's nuisance claim, which remains pending.

On December 6, 2022, Gecy filed her Complaint in the Beaufort County Court of Common Pleas, alleging numerous claims, including those arising from the relocation of an access roadway from Roberta Lane to South Carolina Highway 280. [R. at ____].

On March 13, 2023, Integra filed its Amended Answer and Counterclaims. [R. at ____]. Gecy filed a Reply to Integra's Answer and Amended Counterclaims on March 31, 2023. [R. at ____].

On July 11, 2023, Gecy filed a Motion for Temporary Injunction against Integra with a supporting Affidavit of Christina Gecy. [R. at ____]. Gecy's affidavit was later amended on December 6, 2023. [R. at ____]. The Motion for Temporary Injunction was continued by consent and eventually withdrawn on January 12, 2024. [R. at ____].

Following discovery, Integra filed a Motion for Summary Judgment on December 17, 2024, which was eventually scheduled for a virtual hearing on May 20, 2025. [R. at ____].

On May 13, 2025, two years into the case, Gecy filed a Motion to Amend Complaint. [R. at ____]. On May 14, 2025, Gecy's attorney, E.W. Bennett, Jr., filed an affidavit referencing the Motion to Amend and seeking a continuance. [R. at ____]. On that same day, Integra filed its memorandum in support of its Motion for Summary Judgment. [R. at ____]. On May 15, 2025, Gecy filed a Motion for Continuance of the summary judgment hearing based on her Motion to Amend. [R. at ____].

On Friday, May 16, 2025, Gecy filed an affidavit from her husband, Ben Gecy, opposing Integra's motion for summary judgment. [R. at ____]. On May 17, 2025, she filed a memorandum opposing Integra's motion for summary judgment. [R. at ____].

On Monday, May 19, 2025, Integra filed a Motion to Strike portions of the Amended Affidavit of Gecy filed on December 6, 2023, and the Affidavit of Benjamin C. Gecy filed May 16, 2025 (the "Gecy Affidavits"). [R. at ____].

The next day, May 20, 2025, the Honorable H. Steven DeBerry, IV presided over the summary judgment hearing. [R. at ____].

On July 2, 2025, the circuit court entered an Order Granting Integra's Motion to Strike and Granting Integra Partial Summary Judgment. [R. at ____ ("Order")]. On that same date, the circuit court also entered an Order Granting Defendant Gasque & Associates, Inc.'s Motion for Summary Judgment. [R. at ____].

On July 13, 2025, Gecy filed a Motion to Alter or Amend Judgment pursuant to Rule 59(e), SCRPC. [R. at ____]. By Order dated July 15, 2025, the circuit court denied the Rule 59(e) motion. [R. at ____].

Gecy served and filed her Notice of Appeal on August 1, 2025. [R. at ____].

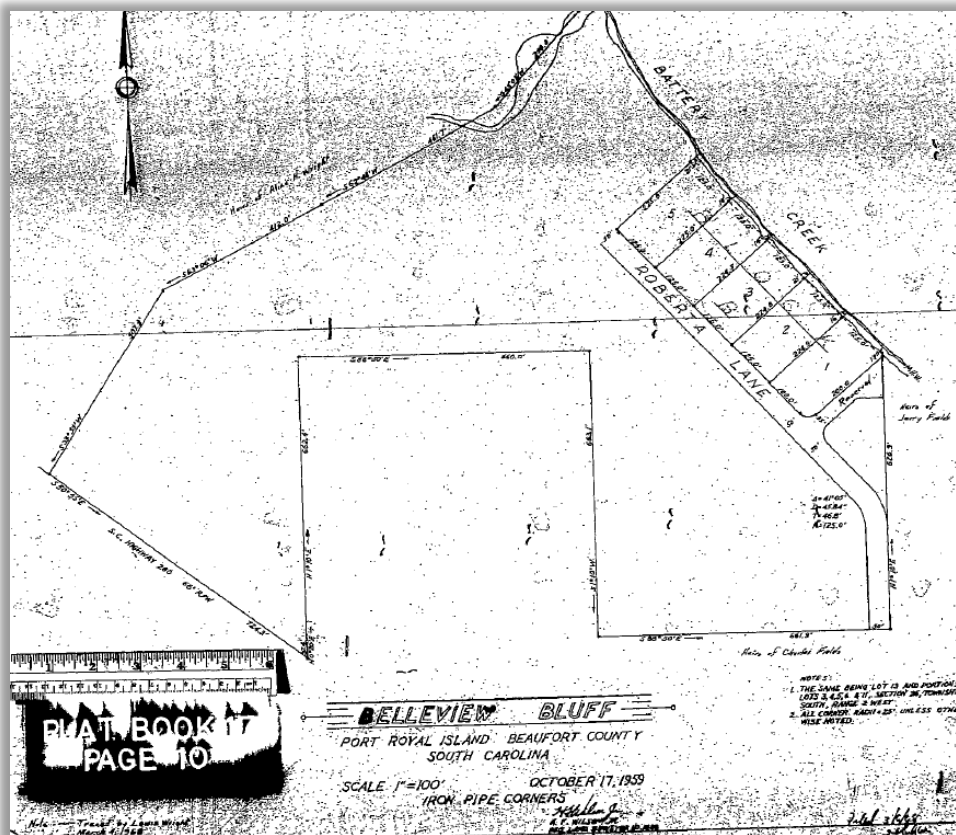
STATEMENT OF FACTS

This appeal concerns whether Integra lawfully relocated the access route serving Bellevue Bluff pursuant to the 1984 Easement (defined below). The circuit court concluded that Integra had the right to relocate the access route under the express language of the 1984 Easement and that Gecy failed to present evidence creating a genuine issue of material fact that the completed relocated roadway impaired any easement right. Thus, this appeal does not concern temporary construction conditions or issues relating solely to Roberta Lane.

Because this appeal arises from the grant of summary judgment, the facts are presented in the light most favorable to Gecy as the nonmoving party. The material facts, however, are established by recorded plats, deeds, easements, and other documentary evidence whose contents are not disputed.

A. The Bellevue Bluff Subdivision and the 1959 Plat.

On October 17, 1959, the Wright family had a plat prepared for Bellevue Bluff, a five-lot subdivision on Battery Creek in Beaufort County. [1959 Plat, R. ____]. The 1959 Plat, set forth below, depicts Roberta Lane, but it does not show any right of ingress or egress from the lots to a public road:



The parties do not dispute that the Wright family owned the entire property shown on the 1959 Plat, including the five lots depicted on the plat, and that, over time, the Wright family added two additional lots, Lots 6 and 7, to the subdivision and gradually sold the lots.

Lot 4, now owned by Gecy as Trustee of the Battery Retreat Revocable Trust, was first conveyed by the Wright family in March 1968 to Milton Reynolds and Geraldine Reynolds. [*Reynolds Deed*, R. ____]. Gecy acquired Lot 4 by deed recorded June 28, 2021. [*Gecy Deed*, R. ____].

B. The 1984 Easement.

Because the 1959 Plat did not provide access from the subdivision lots to a public road, the Wright family executed and recorded an easement providing access (the “1984 Easement”)—the central document in this appeal. [R. ____ (1984 Easement)]. It provides:

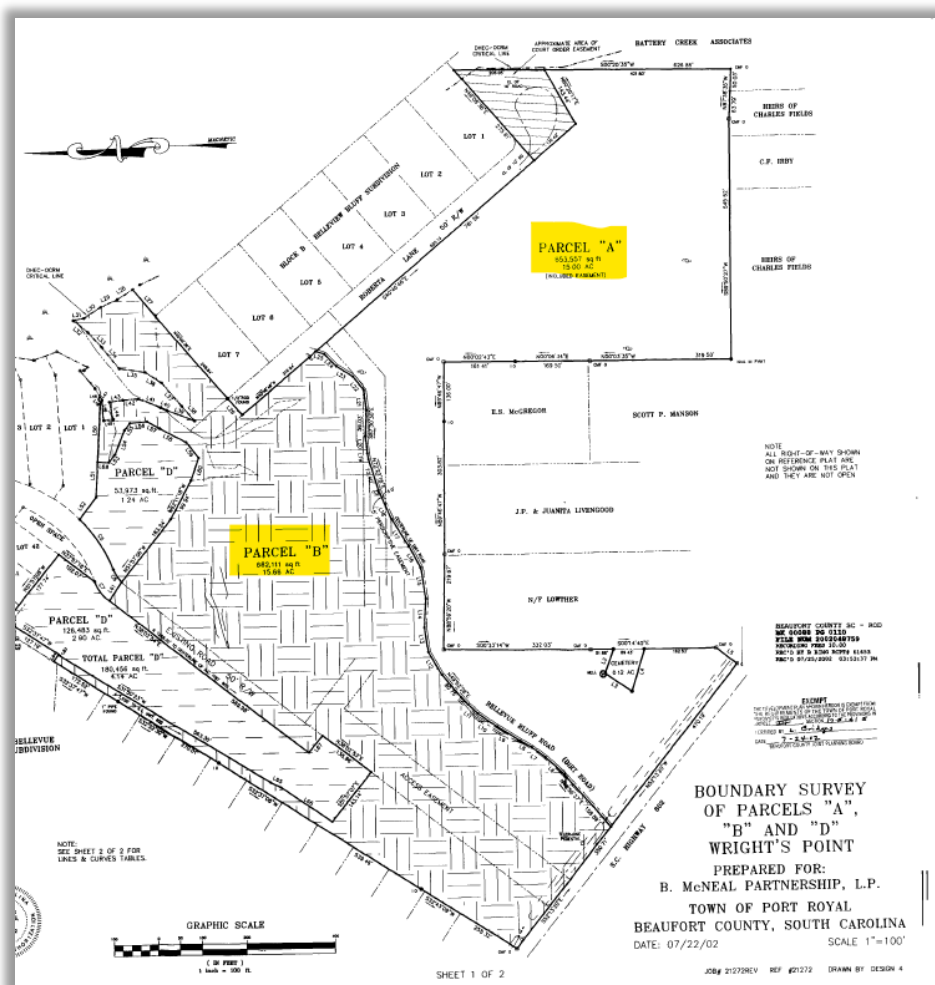
1. Seven (7) lots have been sold out of this property. There is no right of ingress and egress shown on said plat.
2. There is shown Roberta Lane as fifty (50) feet wide. We hereby bind ourselves that there will be an entrance from these lots from the Northern end of said Roberta Lane to SC Highway # 280 fifty (50) feet wide.
3. That the location of said ingress and egress at this point in time is not designated on said plat, and firmly designated because of natural barriers **and also in the future the location of this may change.**
4. That it is agreed and understood that this right of way shall be on the Northern and Western portions of said property and shall be from Roberta Lane to SC Highway # 280.
5. That there is a roadway being used by the owners of said lots at this time and this roadway **shall remain open until a substitute, usable, and well maintained roadway is relocated.** That this right of ingress and egress shall be for the benefit of the present and future owners of the lots designated and any future lots developed in this subdivision.

THIS AGREEMENT is for the benefit not only for the owners of said lots in this subdivision, but for any person, corporation, association, or lending institution that give loans to any portion of this property.

[1984 Easement ¶¶ 1-5, R. ____ (emphasis added)]. Gecy does not dispute she is bound by the 1984 Easement and relies on it as the basis for many of her claims in her Complaint.

C. McNeal Partnership and Integra's Property.

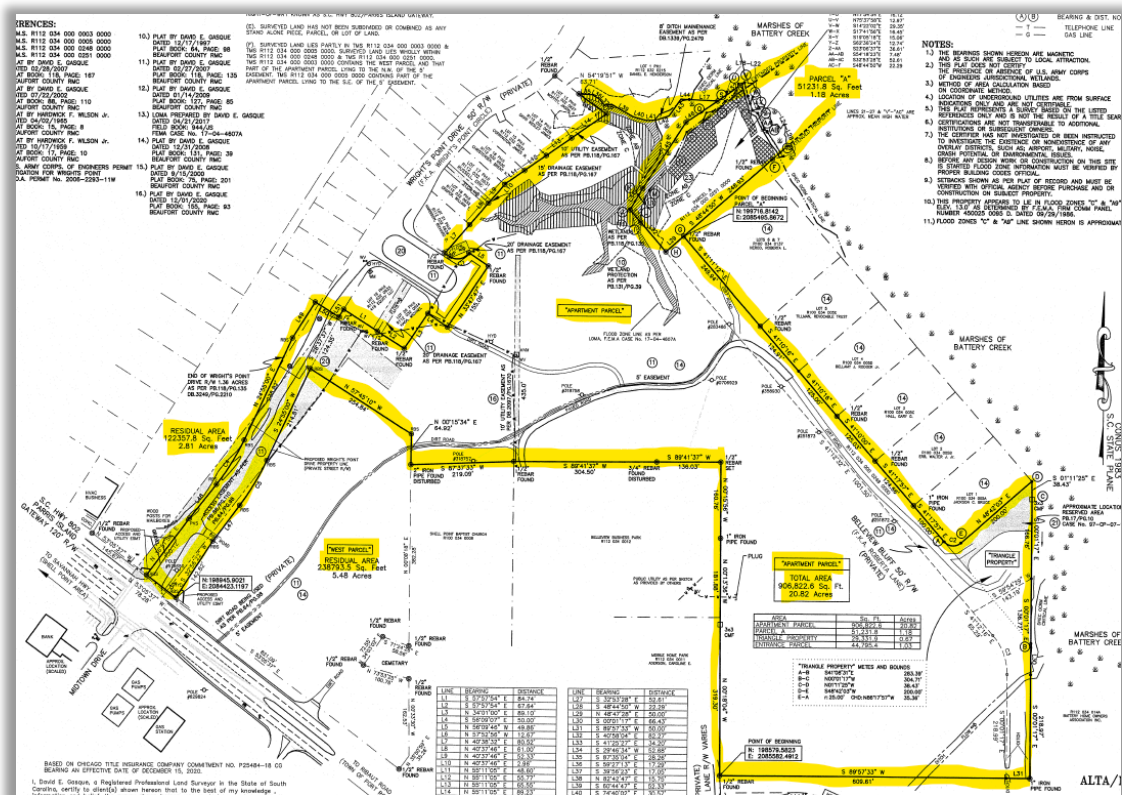
By 2003, B. McNeal Partnership, L.P. became the owner of property adjoining Bellevue Bluff, including Parcels A and B shown on a plat recorded in Plat Book 88 at Page 110, which is depicted below:



[Plat Book 88, Page 110, R. ____; McNeal Deeds, R. ____].

When the McNeal Partnership acquired Parcels A and B, its attorney advised that under the 1984 Easement, it had the right to move the access road to Bellevue Bluff. [McNeal Dep. PP.

In 2020, McNeal Partnership contracted to sell portions of Parcels A and B for development of an apartment project. [McNeal Dep. pp. 97, 107, R. ____]. A condition of that contract was for an apartment project to be approved, which approval was handled by the buyer, The Reserve at Battery Creek, LLC (“RABC”). [McNeal Dep. pp. 97, 107, R. ____]. Once the appropriate governmental approval was obtained, McNeal Partnership conveyed what is known as the Apartment Parcel to RABC by deed recorded December 15, 2020 [Deed to RABC, R. ____]. McNeal Partnership retained parts of Parcels A and B that were not part of the Apartment Parcel, all as shown on the survey recorded in Plat Book 155 at Page 116:



[Plat Book 155 at Page 116, R. ____].

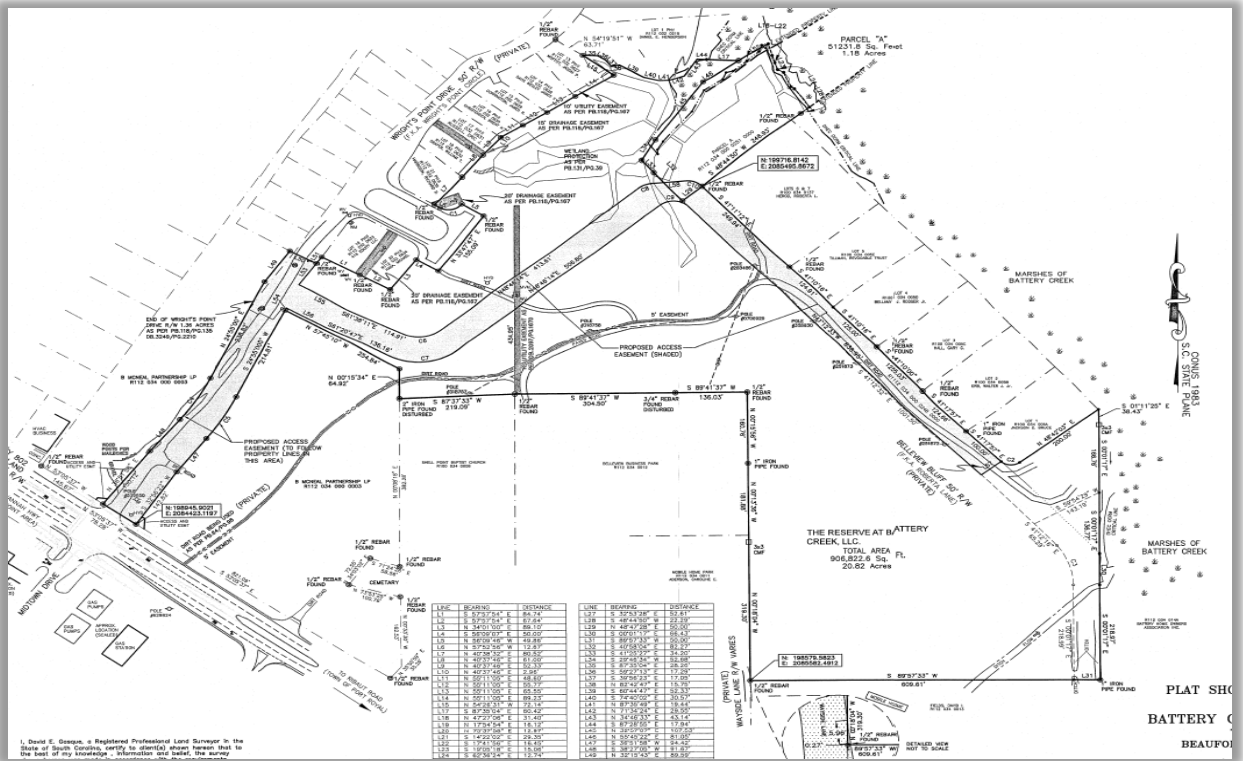
D. Gecy Purchases Lot 4 in 2021

In June 2021, Gecy purchased Lot 4. [Gecy Deed, R. ____]. Before the purchase, Gecy and her husband did not examine or inquire about the zoning of the adjoining property or the Apartment Parcel. [B. Gecy Dep. Vol. I, p. 53, lines 23-25, pp. 64-65, R. ____; C. Gecy Dep. p. 31, R. ____]. Mr. Gecy testified that he had “no reason to look at that zoning” and that it “didn’t matter” to him. [B. Gecy Dep. Vol. I, p. 54, lines 1-5, R. ____]. Mr. Gecy did not investigate whether apartments would be constructed next door to Lot 4, even though the development had been approved for more than a year before Gecy purchased Lot 4. [B. Gecy Dep. Vol. I, p. 65, R. ____]. Gecy also did not have Lot 4 surveyed before purchase, and her husband never looked at any plats before the purchase. [C. Gecy Dep. p. 30, R. ____; B. Gecy Dep. Vol. I, pp. 129-30, R. ____]. The Gecys never discussed or had any concerns about legal access to Lot 4 prior to their purchase. [C. Gecy Dep. pp. 37-38, R. ____].

E. Integra Purchases the Apartment Parcel and the Access Route is Relocated

Integra purchased the Apartment Parcel and Parcel A from RABC by Deed recorded May 9, 2022. [Integra Deed, R. ____].

A few months before the purchase was consummated, RABC recorded a Plat on February 7, 2022, in Plat Book 158 at Page 100, depicted below, showing a proposed access easement that would run across the Apartment Parcel and provide access to the lots in Belleview Bluff from Roberta Lane to the public road.



[Plat Book 158 at Page 100, R. ____].

It is undisputed that (a) construction on the apartment project began in June 2022, which is now complete, and the project contains 216 units; (b) the new access route is paved, lighted, and contains curbing; (c) the new access route provides access for owners of homes in Bellevue Bluff to and from Roberta Lane to a public road; and (d) no one, including Integra, is challenging Gecy's right to access Lot 4 over and across Integra's property via the relocated access road. [Order at 7. R ____].

F. Gecy's Complaint.

Although Gecy continues to dispute the scope of the rights conferred by the 1984 Easement and asserts on appeal that those rights were exclusive, her Complaint consistently relied on the 1984 Easement as the source of those rights. For example, Gecy sought a declaration that she possessed "an exclusive easement by grant as to Highway 280 Private Road as described in the

Easement Agreement.” [*Complaint* ¶ 67(b), R. ____]. She likewise alleged that Defendants interfered with her rights and property interests under the 1984 Easement and sought damages for the alleged interference with and breach of that agreement. [*Complaint* ¶¶ 54, 79–80, R. ____]. Accordingly, although Gecy challenged the nature and extent of the rights created by the 1984 Easement, her Complaint consistently acknowledged that those rights arose from the 1984 Easement.¹

The Order on appeal addressed the following claims:

- **Declaratory Relief Regarding Easements**: Gecy sought a declaration that she held “an exclusive easement implied by law by virtue of the Gecy Deed’s reference to the 1959 Plat as to Roberta Lane” and “an exclusive easement by grant as to Highway 280 Private Road as described in the Easement Agreement”; or “alternatively, a prescriptive easement on the Highway 280 Private Road.” [*Complaint* ¶ 67, R. ____]. In her reply, however, to Integra’s amended counterclaims, Gecy admitted that any easement rights associated with the Highway 280 Private Road are nonexclusive and explained that “the allegations to the contrary in [Gecy’s] Complaint are the result of a scrivener’s error.” [*Reply to Integra’s Amended Counterclaims* ¶ 5, R. ____].
- **Permanent Injunction**: Gecy sought a permanent injunction enjoining Integra from accessing and using the easements Gecy claims to possess without the permission of Gecy. [*Complaint* ¶ 75, R. ____].

¹ The Order on appeal also disposed of Gecy’s claims for civil conspiracy, slander of title, and the portion of her declaratory judgment claim seeking to void plats. Gecy does not challenge those rulings. Therefore, they are not addressed by Integra. *See* Rule 208(b)(1)(B), SCACR (“Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal.”); *Herron v. Century BMW*, 395 S.C. 461, 466, 719 S.E.2d 640, 642 (2011) (holding that an issue must be “reasonably clear” from an appellant’s arguments in order to be considered by the appellate court).

- **Intentional Interference with Easement Rights**: Gecy sought damages for interference with “Gecy’s easement rights, including those arising under the publicly recorded easement agreement.” [*Complaint* ¶ 78, R. ____].

While the Order addressed the claims over relocation and the new road as completed, the trial court did not address Gecy’s claims for adverse possession of the so-called border property, trespass, forcible entry and detainer pursuant to S.C. Code Ann. § 15-67-410, or nuisance. Those claims concern adverse possession of portions of Roberta Lane or damages arising from interference with Gecy’s property and easement rights, none of which were resolved by the Order and remain pending below.

G. Integra’s Counterclaims.

Integra answered the Complaint and asserted counterclaims seeking declaratory relief concerning the parties’ rights under the 1984 Easement. Integra alleged that the 1984 Easement benefits Gecy’s property and adjoining property and grants rights of ingress and egress between Roberta Lane and S.C. Highway 280 (now Parris Island Gateway), including the right to relocate the access route and provide a substitute, usable, and well-maintained roadway. [*Integra’s Am. Answer & Counterclaims* ¶ 119, R. ____]. Integra further alleged that any changes or adjustments to the path of the Highway 280 Private Road were authorized under the 1984 Easement and that any easement rights associated with the Highway 280 Private Road are nonexclusive in nature. [*Integra’s Am. Answer & Counterclaims* ¶¶ 120–122, R. ____].

In her reply to the counterclaims, Gecy admitted that the 1984 Easement benefits her property and adjoining property and grants rights of ingress and egress between Roberta Lane and S.C. Highway 280 (now Parris Island Gateway), including the right to relocate the access route and provide a substitute, usable, and well-maintained roadway. [*Reply to Answer & Am.*

Counterclaims ¶ 3, R. ____]. Gecy also admitted that any easement rights associated with the Highway 280 Private Road are nonexclusive in nature, explaining that contrary allegations in her Complaint resulted from a scrivener's error. [*Reply to Answer & Am. Counterclaims* ¶ 5, R. ____]. Gecy denied that changes to the access route were authorized or proper, but she did not deny the existence of the 1984 Easement, its applicability to her property, or the rights granted by its express terms. [*Reply to Answer & Am. Counterclaims* ¶¶ 4–9, R. ____].

H. The Gecy Affidavits.

Benjamin Gecy and Christina Gecy submitted affidavits in opposition to summary judgment. Significant portions of those affidavits concern alleged historical use of the former roadway and events predating the affiants' ownership of, or residence on, Lot 4. [*Benjamin Gecy Aff.* ¶¶ 8–21, R. ____; *Christina Gecy Aff.* ¶¶ 8–21, R. ____]. As discussed below, Integra challenged portions of that testimony on the grounds that it was not based on personal knowledge, consisted of hearsay, or contained conclusory assertions. [*Motion to Strike*, R. ____]. Other portions concern construction activities associated with the apartment development, including temporary route changes, construction traffic, debris, delivery disruptions, and related complaints. [*Benjamin Gecy Aff.* ¶¶ 23–28, 35–46, R. ____; *Christina Gecy Aff.* ¶¶ 31–32, R. ____]. Still other portions address conditions on Roberta Lane/Belleview Bluff, including allegations concerning curbing, parking pads, utility infrastructure, and related improvements. [*Benjamin Gecy Aff.* ¶ 72, R. ____; *Christina Gecy Aff.* ¶¶ 22–23, R. ____].

By contrast, very little of either affidavit concerns the new access route connecting Belleview Bluff to Parris Island Gateway. To the extent the affidavits discuss the new access route, they focus primarily on increased traffic associated with the apartment development. [*Benjamin Gecy Aff.* ¶¶ 14, 23, R. ____; *Christina Gecy Aff.* ¶ 23, R. ____].

Neither affidavit states that the relocated roadway is not a substitute roadway, that it is unusable, or that it is not well maintained. Nor do the affidavits identify any condition of the relocated route that prevents access to Belleview Bluff, renders the roadway unusable, or otherwise materially impairs the easement rights recognized by the 1984 Easement.

The circuit court granted Integra's motion to strike portions of the affidavits that did not satisfy Rule 56(e), SCRCP. [*Order* at 11-13, R. ____].

I. The Circuit Court's Ruling Was Limited and Did Not Dispose of All of Gecy's Claims

As mentioned above, the circuit court did not grant summary judgment on all claims. After the summary judgment hearing, Integra narrowed its request for summary judgment and withdrew that portion of its motion relating to Gecy's nuisance claim to the extent the nuisance claim involved matters outside the relocation of the access route from the public highway to Roberta Lane. [R. ____]. The circuit court thereafter denied summary judgment as to nuisance but granted summary judgment as to the relocation, easement, and prescriptive easement issues addressed in the order. [*Order*, R. ____]

The rulings at issue on appeal concern the matters actually decided by the circuit court: 1) whether Integra had the right under the 1984 Easement to relocate the access route from Roberta Lane to the public road, 2) whether Gecy presented evidence creating a genuine issue of material fact that the relocated route impaired her easement rights, 3) whether Gecy established prescriptive easement rights, and 4) whether the circuit court properly disregarded inadmissible portions of the affidavits submitted in opposition to summary judgment.

STANDARD OF REVIEW

"An appellate court reviews a grant of summary judgment under the same standard applied by the [circuit] court pursuant to Rule 56, SCRCP." *Lanham v. Blue Cross & Blue Shield of S.C., Inc.*, 349 S.C. 356, 361, 563 S.E.2d 331, 333 (2002). "[T]he moving party is entitled to summary

judgment ‘if the [evidence before the court] show[s] that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.’” *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 459, 892 S.E.2d 297, 299 (2023) (alterations in original) (quoting Rule 56(c), SCRPC). “[T]he ‘mere scintilla’ standard does not apply under Rule 56(c).” *Id.* at 463, 892 S.E.2d at 301. “Rather, the proper standard is the ‘genuine issue of material fact’ standard set forth in the text of the Rule.” *Id.* “Summary judgment is appropriate in those cases in which plain, palpable and indisputable facts exist on which reasonable minds cannot differ.” *Main v. Corley*, 281 S.C. 525, 526, 316 S.E.2d 406, 407 (1984).

“In determining whether any triable issue of fact exists, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the non-moving party.” *Summer v. Carpenter*, 328 S.C. 36, 42, 492 S.E.2d 55, 58 (1997). To survive summary judgment, “it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine.” *Kitchen Planners*, 440 S.C. at 462, 892 S.E.2d at 301 (quoting *Town of Hollywood v. Floyd*, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013)). When the nonmoving party bears the burden of proof on an issue, the moving party is entitled to summary judgment if “there is an absence of evidence to support the nonmoving party’s case.” *Richardson v. State-Record Co., Inc.*, 330 S.C. 562, 566, 499 S.E.2d 822, 825 (Ct. App. 1998). “The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.” *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). “In that way, ‘[a] motion for summary judgment is akin to a motion for a directed verdict’ because ‘[i]n each instance, one party must lose as a matter of law.’ ” *Id.* (alterations in original) (quoting *Main v. Corley*, 281 S.C. 525, 526, 316 S.E.2d 406, 407 (1984)).

SUMMARY OF ARGUMENT

The circuit court correctly granted summary judgment because the parties' rights are governed by the 1984 Easement, and the undisputed evidence establishes that Integra acted within the express authority granted by that easement to relocate the access route. The circuit court also correctly concluded that the relocated route constitutes the substitute, usable, and well-maintained roadway contemplated by the 1984 Easement and provides continued access between Bellevue Bluff and Parris Island Gateway. Gecy provided no evidence to the contrary.

Gecy's brief largely bypasses the question decided below—whether the completed, relocated roadway complies with the 1984 Easement—and instead focuses on construction-related disruptions, traffic, and conditions on Roberta Lane. The circuit court did not adjudicate every complaint arising from construction activity or conditions on Roberta Lane. Rather, it addressed the narrower question whether the completed relocated access route between Parris Island Gateway and Roberta Lane complied with the 1984 Easement and materially impaired any easement right. Even accepting Gecy's allegations regarding construction-related nuisance as true, they do not create a genuine issue of material fact concerning those issues actually resolved by the Order on appeal.

Each of Gecy's remaining theories fails for independent reasons. Her prescriptive easement claim is foreclosed by the 1984 Easement's express grant of permission and by her failure to present evidence establishing the elements of prescription with respect to Lot 4. Her claim that the roadway easement is exclusive is contrary to her judicial admissions, the language of the 1984 Easement, and settled South Carolina law recognizing the continuing rights of a servient owner. Because no easement violation occurred, her request for injunctive relief necessarily fails. Finally, the circuit court correctly applied Rule 56(e), SCRPC, to the stricken affidavit portions, and in any

event expressly found that summary judgment was proper even if it considered the challenged affidavit testimony. For all of these reasons, the Order should be affirmed.

Ultimately, the central issue in this appeal is straightforward: the 1984 Easement expressly authorized relocation, the replacement roadway continues to provide access, and Gecy failed to present evidence creating a genuine issue of material fact that the completed relocation violated any easement right.

ARGUMENT

I. THE CIRCUIT COURT CORRECTLY HELD THAT THE 1984 EASEMENT EXPRESSLY AUTHORIZES RELOCATION OF THE ACCESS ROUTE.

Gecy does not dispute that the 1984 Easement created a valid express easement. Indeed, she expressly disclaims any challenge to that ruling. *See Appellant's Brief* at 11 (“Gecy does not appeal any portion of the Integra or Gasque orders holding or implying that an express easement was created by the 1984 agreement . . .”). The validity and enforceability of the 1984 Easement are therefore the law of the case. *See Shirley's Iron Works v. City of Union*, 403 S.C. 560, 573, 743 S.E.2d 778, 785 (2013) (“An unappealed ruling is the law of the case.”). The question on appeal is not whether the 1984 Easement is valid, but whether its terms authorize relocation of the access route.

The grant of an easement is to be construed under the rules applied to deeds and other written instruments. *See K&A Acquisition Grp., LLC v. Island Pointe, LLC*, 383 S.C. 563, 581, 682 S.E.2d 252, 262 (2009). “When the language of a contract is clear, explicit, and unambiguous, the language of the contract alone determines the contract’s force and effect and the court must construe it according to its plain, ordinary, and popular meaning.” *ERIE Ins. Co. v. Winter Constr. Co.*, 393 S.C. 455, 461, 713 S.E.2d 318, 321 (Ct. App. 2011). “In construing a deed, the intention of the grantor must be ascertained and effectuated, unless that intention contravenes some well

settled rule of law or public policy.” *Windham v. Riddle*, 381 S.C. 192, 201, 672 S.E.2d 578, 582–83 (2009). “In determining the grantor’s intent, the deed must be construed as a whole and effect given to every part if it can be done consistently with the law.” *Id.* “The intention of the grantor must be found within the four corners of the deed.” *Id.* Our courts have likewise recognized that “[a]lterations of easements expressly granted will be interpreted under contract law principles; permission to alter must be intended by words or meaning of grant.” *Goodwin v. Johnson*, 357 S.C. 49, 56, 591 S.E.2d 34, 38 (Ct. App. 2003) (quoting *Soderberg v. Weisel*, 687 A.2d 839, 843 n.3 (Pa. Super. Ct. 1997)).

Consistent with those principles, “[t]he rights of one claiming an easement by express grant are limited within the scope of the privilege.” *Forest Land Co. v. Black*, 216 S.C. 255, 263, 57 S.E.2d 420, 424 (1950). “The extent of the servitude is determined by the terms of the grant.” *Id.* As one leading treatise explains, “[a]n express easement may include a provision authorizing one of the parties to relocate the easement.” Jon W. Bruce & James W. Ely, Jr., *The Law of Easements and Licenses in Land* § 7:14 (2026).

The 1984 Easement expressly and unambiguously contemplates future relocation of the access route. Paragraph 3 provides:

That the location of said ingress and egress at this point in time is not designated on said plat, and firmly designated because of natural barriers *and also in the future the location of this may change.*

[1984 Easement ¶ 3, R. ____] (emphasis added). The 1984 Easement further provides:

That there is a roadway being used by the owners of said lots at this time and this roadway shall remain open *until a substitute, usable, and well maintained roadway is relocated.*

[1984 Easement ¶ 5, R. ____] (emphasis added).

The plain language of these provisions unambiguously demonstrates that the parties

expressly authorized and anticipated future relocation of the roadway. The 1984 Easement does not state that the roadway's location is fixed in perpetuity; to the contrary, it expressly provides that "the location of this may change." Any interpretation prohibiting relocation would render these provisions meaningless. *See Bluffton Towne Ctr., LLC v. Gilleland-Prince*, 412 S.C. 554, 569, 772 S.E.2d 882, 890 (Ct. App. 2015) ("If practical, a court should interpret the agreement so as to give effect to all of its provisions."); *Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC*, 374 S.C. 483, 498–99, 649 S.E.2d 494, 502 (Ct. App. 2007) ("It is fundamental that in the construction of the language of a [contract], it is proper to read together the different provisions therein dealing with the same subject matter, and where possible, all the language used should be given a reasonable meaning." (alteration in original) (quoting *Brady v. Brady*, 222 S.C. 242, 246, 72 S.E.2d 193, 195 (1952))).

Because the Easement is unambiguous, its legal effect was a question of law for the court. *See Proctor v. Steedley*, 398 S.C. 561, 573, 730 S.E.2d 357, 363 (Ct. App. 2012). Giving effect to the relocation clause here also vindicates the parties' original intent to ensure continuing, flexible access for present and future owners and lenders, rather than freezing a single dirt road in place. Accordingly, the circuit court correctly concluded that the 1984 Easement authorizes relocation of the access route.

II. THE PARTIES' RIGHTS FOLLOWING RELOCATION ARE GOVERNED BY THE EXPRESS TERMS OF THE 1984 EASEMENT, NOT A DIFFERENT COMMON-LAW STANDARD.

The 1984 Easement itself supplies the governing standard by requiring that any replacement roadway be "a substitute, usable, and well maintained roadway." Gecy does not ask this Court to interpret those provisions. Instead, she asks the Court to disregard them and apply a different common-law standard that does not give effect to the parties' written expressions of intent

set forth in the 1984 Easement.

Before turning to the merits, Gecy failed to preserve her principal argument on appeal—that any relocation right in the 1984 Easement must “give way to the common law.” She never argued in her Rule 59(e) motion that the circuit court should disregard the Easement’s express relocation provisions in favor of an independent common-law limitation.² She never contended that South Carolina common law supersedes relocation authority expressly granted by the 1984 Easement. Rather, her motion challenged Integra’s authority to relocate the roadway and disputed the circuit court’s interpretation of the 1984 Easement. [Rule 59(e) Motion at 9-10, R. ____]. Because the theory she advances here was neither presented to nor ruled upon by the circuit court, it is not preserved for appellate review. *See Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) (issue must be raised to and ruled upon by trial court); *Smith v. Phillips*, 318 S.C. 453, 458 S.E.2d 427 (1995) (declining to address issue not raised below); *Hanahan v. Simpson*, 326 S.C. 140, 155, 485 S.E.2d 903, 911 (1997) (finding that where the appellate argument differs from the argument for the trial objection, the issue is not preserved); *In re Walter M.*, 386 S.C. 387, 392, 688 S.E.2d 133, 136 (Ct. App. 2009) (stating that “[a]rguments raised for the first time on appeal are not preserved for our review.”).

Even if preserved, the argument fails because the authorities Gecy relies on do not support disregarding the 1984 Easement’s express relocation provisions. Gecy principally relies upon *Goodwin v. Johnson*, 357 S.C. 49, 53, 591 S.E.2d 34, 36 (Ct. App. 2003) and the *Restatement (Third) of Property: Servitudes* § 4.8(3) discussed in *Goodwin*. Neither authority supports the

² Gecy appears to contend that she raised this issue in her Rule 59(e) motion. *Appellant’s Brief* at 13. The argument advanced on appeal—that any contractual relocation right must yield to a common-law prohibition against unreasonable relocation—appears nowhere in the motion, in substance, or otherwise.

proposition that an express relocation provision in a valid easement is displaced by a contrary common-law rule or that a court may disregard an express relocation provision.

In fact, *Goodwin* itself recognized the distinction presented here. In discussing *Soderberg v. Weisel*, *Goodwin* quoted with approval that “[p]rescriptive easements are also quite different from express grant easements” and that “[a]lterations of easements expressly granted will be interpreted under contract law principles; permission to alter must be intended by words or meaning of grant.” *Goodwin*, 357 S.C. at 56, 591 S.E.2d at 38 (*quoting Soderberg v. Weisel*, 687 A.2d 839, 843 n.3 (Pa. Super. Ct. 1997)). *Goodwin*, which considered whether a servient estate could relocate an easement by necessity, i.e., an implied easement without express relocation provisions, and the *Restatement* would interpret express easements according to their terms.

Courts construe written instruments; they do not rewrite them. *See Hardee v. Hardee*, 355 S.C. 382, 387, 585 S.E.2d 501, 503 (2003) (“The judicial function of a court of law is to enforce a contract as made by the parties, and not to rewrite or to distort, under the guise of judicial construction, contracts, the terms of which are plain and unambiguous”). The circuit court in the Order construed the 1984 Easement according to its plain, unambiguous terms. Accordingly, the circuit court correctly enforced the express terms of the 1984 Easement rather than substituting a different common-law standard.

III. GECY FAILED TO PRESENT EVIDENCE CREATING A GENUINE ISSUE OF MATERIAL FACT THAT THE RELOCATED ROADWAY WAS NOT THE “SUBSTITUTE, USABLE, AND WELL-MAINTAINED ROADWAY” REQUIRED BY THE 1984 EASEMENT.

Gecy does not directly challenge the circuit court’s finding on appeal. She does not argue that the relocated roadway is not a substitute roadway, that it is unusable, or that it is not well maintained. Instead, Gecy asks this Court to evaluate the relocation under a different standard derived from common-law authorities and the *Restatement*. As discussed above, that argument is

both unpreserved and incorrect. Preservation aside, Gecy identified no evidence creating a genuine issue of material fact under the standard set forth in the 1984 Easement.

The 1984 Easement does not require the roadway to remain in its original location forever, nor does it prohibit future development of the surrounding property. Rather, it only requires that any replacement roadway be a substitute, usable, and well-maintained roadway. Thus, to survive summary judgment, Gecy was required to identify evidence creating a genuine issue of material fact that the relocated roadway was not a substitute, usable, and well-maintained roadway the 1984 Easement requires. *See Carolina All. for Fair Emp. v. S.C. Dep't of Lab., Licensing, & Regul.*, 337 S.C. 476, 485, 523 S.E.2d 795, 800 (Ct. App. 1999) (holding that summary judgment is proper where a party fails to establish an essential element on which it bears the burden of proof). Gecy failed to produce such evidence, and the circuit court properly granted summary judgment on this issue.

The circuit court concluded not only that the 1984 Easement authorized relocation, but also that the relocated roadway satisfied the standard established by the 1984 Easement. Specifically, the circuit court found:

Here, the 1984 Easement clearly and unambiguously authorizes the owner of the servient estate to relocate the access route. It expressly mentions the road in use and further provides that “this roadway shall remain open until a substitute, usable, and well maintained roadway is relocated.” *This is exactly what happened. A winding dirt road was modified and improved into a usable, paved, lit, and curbed road with proper drainage.*

[Order at 15, R. ____] (emphasis added).

Nothing in the summary judgment record suggests that the relocated roadway fails to satisfy any of the requirements imposed by the 1984 Easement. No witness testified that the roadway is not a substitute roadway, that it is unusable, or that it is not well maintained. Indeed, no witness testified that the roadway is impassable, that emergency vehicles cannot use it, that

residents cannot reach Parris Island Gateway, or that any physical obstruction interferes with travel.

While Benjamin Gecy and Christina Gecy submitted affidavits, neither affidavit addresses the standard established by the 1984 Easement. Neither affidavit states that the relocated roadway is not a substitute roadway, that it is unusable, or that it is not well maintained. Neither affidavit identifies a defect in the relocated roadway's surface, condition, or construction that renders it unusable. Instead, the affidavits contain complaints about apartment development, temporary construction activities, increased traffic, destruction of portions of Roberta Lane/Belleview Bluff Road, and related conditions along Roberta Lane. [*Benjamin Gecy Aff.* ¶¶ 23–28, 35–46, 72, R. ____; *Christina Gecy Aff.* ¶¶ 22–23, 31–32, R. ____]. Those allegations are addressed more fully below. For present purposes, however, it is enough to note that the temporary construction activity allegations do not constitute evidence that the completed, relocated roadway fails to satisfy the standard set forth in the 1984 Easement.

Accordingly, Gecy failed to identify evidence creating a genuine issue of material fact that the relocated roadway was not the substitute, usable, and well-maintained roadway required by the 1984 Easement, and the circuit court properly granted summary judgment.

IV. EVEN UNDER THE COMMON-LAW AND RELOCATION STANDARDS ADVANCED BY GECY, SUMMARY JUDGMENT WAS PROPER BECAUSE GECY PRESENTED NO EVIDENCE THAT THE LOCATION OF THE RELOCATED ROADWAY MATERIALLY IMPAIRED HER EASEMENT RIGHTS.

Even accepting Gecy's legal framework, her claim fails for a more basic reason: the record contains no evidence that the location of the completed, relocated roadway materially impaired her easement rights. The circuit court reached that same conclusion, finding "no evidence" that the

relocation reduced the utility of the easement, increased the burdens associated with its use, or frustrated its purpose. [*Order* at 21, R. ____].³

As an initial matter, several of the theories Gecy advances on appeal—including new arguments based on alleged obstructions within the relocated easement corridor and the extent of access provided by the relocated roadway—were never presented to the circuit court. Instead, the proceedings below focused on whether Integra possessed the right to relocate the roadway, whether Gecy possessed prescriptive rights in the former route, and whether apartment traffic would overburden the easement. Gecy now argues, without supporting evidence in the record, that curbing, parking pads, light poles, utility infrastructure, and other improvements allegedly located within the relocated easement corridor render the relocation improper. *Appellant’s Brief* at 25, 31, 33. She likewise argues that the relocated roadway fails to provide access over the full extent of the easement area. *Id.*

Although the Gecy affidavits and Rule 59(e) motion contain allegations of obstruction and interference, those allegations concern Roberta Lane/Bellevue Bluff and construction-period conditions rather than the completed, relocated access route. Any arguments related to obstructions in the relocated easement corridor were not raised at summary judgment, were not presented in Gecy’s Rule 59(e) motion, and were not addressed by the circuit court. Because these new theories were neither presented to nor ruled upon by the circuit court, they are not preserved for appellate review. *See Mathis v. Brown & Brown of S.C., Inc.*, 389 S.C. 299, 311, 698 S.E.2d 773, 779 (2010) (holding, in order for an issue to be properly preserved for appeal, it must have been both raised

³ Gecy repeatedly characterizes the circuit court’s ruling as granting Integra an “unlimited” relocation right. The circuit court did not so hold. It concluded that the relocation at issue complied with the specific conditions imposed by the 1984 Easement and satisfied the standards advanced by Gecy herself. [*Order* at 21, R. ____].

to and ruled on by the trial court, and where the trial court's order did not address appellant's argument and appellant did not bring the absence of this issue to the trial court's attention in a motion to alter or amend, the issue was not preserved).

Even setting preservation aside, Gecy produced no evidence satisfying the standard she asks this Court to apply. Under *Restatement (Third) of Property: Servitudes* § 4.8(3), a relocation is improper only if it would “(a) significantly lessen the utility of the easement, (b) increase the burdens on the owner of the easement in its use and enjoyment, or (c) frustrate the purpose for which the easement was created.”

The circuit court examined those very factors and concluded that “there is no evidence that the relocated access route significantly reduces the utility of the easement, no evidence that it increases the burdens on [Gecy] in her use and enjoyment of the easement, and no evidence that the relocated access route frustrates the purpose for which the easement was created.” [Order at 21, R. ____]. Consistent with that conclusion, the circuit court further held that “any claim by [Gecy] related to interference with easement rights fails as a matter of law insofar as the access road from Highway 280 (the Parris Island Gateway) to Belleview Bluff (Roberta Lane) was properly relocated.” [Order at 28, R. ____]. Thus, the circuit court ultimately resolved a single question: whether the relocated access route violated any easement right recognized by the 1984 Easement. The circuit court correctly concluded that it did not.

Rather than addressing those findings, Gecy focuses on construction activity, traffic, and alleged obstructions. Those complaints concern temporary construction conditions, Roberta Lane, or other matters outside the question resolved by the circuit court. They do not establish that the location of the new access route materially impaired her easement rights, and are potentially pertinent to claims not on appeal.

In her brief, Gecy asserts that “[t]he easement is now filled with curbing, parking pads, and other infrastructure restricting the Gecys’ ability to use its entire 50-foot width for ingress and egress to their property,” citing paragraph 72 of Benjamin Gecy’s affidavit. *Appellant’s Brief* at 33. However, the portion of paragraph 72 discussing curbing, parking pads, utility lines, a retention pond, and similar improvements concerns Roberta Lane—now known as Belleview Bluff—and not the relocated access route between Parris Island Gateway and Roberta Lane. Thus, the cited evidence concerns a different roadway and different alleged impacts, not the roadway relocation at issue in this appeal.⁴

The record contains no evidence that the relocated roadway diminished the utility of the easement, which is ingress and egress. The relocated roadway continues to provide access between Belleview Bluff and Parris Island Gateway. No witness testified that the relocated roadway is impassable. No witness testified that Belleview Bluff residents are unable to access the public roadway. No witness identified a condition within the relocated roadway itself that prevents its use. In ruling on the issue, the circuit court found that the former dirt road had been replaced with a “usable, paved, lit, and curbed road with proper drainage.” [Order at 15, R. ____]. Gecy does not directly challenge that finding.

Additionally, the record does not show that the relocation imposed any additional burden on the use of the easement. Once the temporary construction-related complaints are set aside—and those claims remain pending below—the only complaint directed at the relocated roadway itself is that it has more users. The affidavits contain repeated references to increased traffic associated with the apartment development. However, increased traffic over a nonexclusive

⁴ Similarly, as mentioned above, Gecy in her Rule 59(e) motion did not argue that curbing, parking pads, light poles, utility infrastructure, or other improvements blocked the completed relocated access route. Those allegations were directed to Roberta Lane/Belleview Bluff.

easement is not the same as a material impairment of access rights. Indeed, increased traffic should not come as a surprise. The 1984 Easement expressly extends its benefits to both then-existing lot owners and to “future owners” and “future lots developed in this subdivision.” [1984 Easement, R. ____]. That language reflects the parties’ expectation that the roadway would continue to serve future development and future users. A complaint that additional users now travel the roadway is difficult to reconcile with the forward-looking language the parties themselves included in the 1984 Easement.

Likewise, South Carolina law has never recognized a right to exclude all other users from a nonexclusive easement. The owner of a servient estate, such as Integra, has “the right to the use and possession of the land covered by the right of way for any purpose not incompatible with the purposes for which the easement was granted or acquired.” *S. Ry. v. Beaudrot*, 63 S.C. 266, 41 S.E. 299, 300 (1902); *see also* 3 *Tiffany Real Prop.* § 811 (3d ed.) (“The owner of the servient tenement may make any use thereof, which is consistent with or not calculated to interfere with the exercise of the easement, or with possible and proper prospective uses of the easement, or he may permit others to make such a use.”); Jon W. Bruce et al., *The Law of Easements & Licenses in Land* § 8:20 (2023) (“The owner of the servient estate may utilize the easement area in any manner and for any purpose that does not unreasonably interfere with the rights of the easement holder.”); 28A C.J.S. *Easements* § 222, Westlaw (database updated April 2026) (“Generally, the owner of the servient estate may herself use the way or permit others to do so.”).

Here, Gecy presented no evidence that apartment residents’ use of the relocated roadway prevents Belleview Bluff residents from using it. No witness testified that access is blocked or that travel is impossible, and no witness identified any condition preventing the roadway from serving

its intended function. The evidence shows only that others use the roadway as well, just as contemplated by the 1984 Easement.

Further, Gecy produced no evidence that the relocated roadway frustrated the easement's purpose—access. The Gecy affidavits focus primarily on temporary construction disruptions, alleged conditions on Roberta Lane, and objections to the apartment development. [*Benjamin Gecy Aff.* ¶¶ 23–28, 72, R. ____; *Christina Gecy Aff.* ¶¶ 22–23, R. ____]. Again, notably absent from the affidavits is evidence that the relocated roadway materially impairs access to Belleview Bluff. The Restatement factors,⁵ on which Gecy relies, address the effect of the completed relocation on easement rights, not complaints concerning the construction process itself. It is undisputed that Belleview Bluff residents continue to have access, and the roadway still connects the subdivision to the public road system. Therefore, the concerns Gecy may have regarding the apartment development, construction activities, or conditions along Roberta Lane do not establish that the relocated roadway no longer serves the easement's purpose.

In the end, Gecy asks this Court to apply a standard different from the one set forth in the 1984 Easement, a request this Court should decline. Even if the Court accepts that invitation, Gecy's claim still fails. She produced no evidence that the relocation significantly lessened the utility of the easement, increased the burdens associated with its use and enjoyment, or frustrated the purpose for which it was created. The circuit court reached the correct conclusion, and Gecy identifies no evidence before the circuit court or on appeal that would permit a reasonable factfinder to reach a different one. Because Gecy failed to identify evidence creating a genuine

⁵ Indeed, even if this Court were to adopt Restatement (Third) of Property: Servitudes § 4.8(3) as the governing rule, the undisputed facts show the relocation increased, rather than diminished, the easement's utility, did not impose any additional burdens on Gecy's use, and preserved the exact purpose of providing vehicular access to a public road.

issue of material fact under the very standard she advocates, the circuit court properly granted summary judgment.

V. THE CIRCUIT COURT CORRECTLY GRANTED SUMMARY JUDGMENT ON GECY'S PRESCRIPTIVE EASEMENT CLAIM BECAUSE THE 1984 EASEMENT ESTABLISHED PERMISSIVE USE AND GECY OTHERWISE FAILED TO ESTABLISH THE ELEMENTS OF A PRESCRIPTIVE EASEMENT AS A MATTER OF LAW.

Gecy's prescriptive easement theory cannot be reconciled with her concession that the 1984 Easement created a valid express easement. In this appeal, she expressly accepts the circuit court's determination that the 1984 Easement created a valid express easement and states that she "does not appeal any portion" of the orders "holding or implying that an express easement was created by the 1984 agreement." *Appellant's Brief* at 12. That determination is therefore the law of the case. *See Shirley's Iron Works*, 403 S.C. at 573, 743 S.E.2d at 785. Having accepted the validity of the 1984 Easement, she cannot rely on it to establish access rights while denying its significance when the discussion turns to adversity. The circuit court therefore correctly held that "[t]he 1984 Easement precludes a finding of the required adversity element." [*Order* at 16, R. ____].

A. The 1984 Easement and other evidence preclude a finding of the required adversity element.

Gecy's prescriptive theory depends on treating decades of roadway use as adverse, prescriptive use while simultaneously conceding that these same users were exercising a written right of permission under the 1984 Easement. South Carolina law does not permit an easement holder to convert permissive use into adversity without a distinct hostile repudiation, and none exists here.

To establish a prescriptive easement, "the claimant must identify the thing enjoyed, and show his use has been open, notorious, continuous, uninterrupted, and contrary to the true property owner's rights for a period of twenty years." *Simmons v. Berkeley Elec. Coop., Inc.*, 419 S.C. 223,

233, 797 S.E.2d 387, 392 (2016).⁶ However, evidence of permissive use “defeats the establishment of a prescriptive easement because use that is permissive cannot also be adverse or under a claim of right.” *Bundy v. Shirley*, 412 S.C. 292, 310, 772 S.E.2d 163, 173 (2015). A claimant using property with the owner’s permission “acknowledges the owner’s rights and uses the property without an affirmative, hostile act toward the owner’s rights.” *Id.*; see also *Paine Gayle Props., L.L.C. v. CSX Transp., Inc.*, 400 S.C. 568, 586, 735 S.E.2d 528, 538 (Ct. App. 2012) (recognizing that a claimant’s permissive use of landowner’s property cannot begin to ripen into a prescriptive easement until the claimant makes a distinct and positive assertion of a right hostile to the landowner); *Horry Cnty. v. Laychur*, 315 S.C. 364, 367–68, 434 S.E.2d 259, 261 (1993) (holding evidence, which established that use of property was permissive, showed the use of property was not adverse).

Permissive use may not always begin at the inception of the claimant’s ownership, and “permissive use, which is granted during the claimed twenty-year period, will defeat the establishment of a prescriptive easement, i.e., once permission is granted by the landowner there is no longer adverse use or use under a claim of right.” *Bundy*, 412 S.C. at 310, 772 S.E.2d at 173. Permissive use “can never ripen into a prescriptive easement.” *Id.*

Here, the evidence of permission is neither implied nor inferred. It is contained in a recorded easement that Gecy concedes is valid (and in fact relies upon). The 1984 Easement expressly grants Bellevue Bluff owners the right to use the roadway for ingress and egress. Once

⁶ Gecy argues that the circuit court incorrectly stated that a prescriptive easement must be established by clear and convincing evidence at the summary judgment stage. *Appellant’s Brief* at 39. Regardless, the circuit court’s ruling did not turn on the quantity of evidence presented. Instead, the court concluded that Gecy failed to present admissible evidence creating a genuine issue of material fact regarding the elements of a prescriptive easement and that the undisputed evidence established permissive use. Accordingly, Gecy’s argued imprecision in the court’s description of the applicable burden of proof provides no basis for reversal.

that permission was granted, continued use could not be adverse unless the users later asserted a hostile claim inconsistent with the Easement. Gecy identifies no evidence of any such assertion. *See id.*, at 311, 772 S.E.2d at 173 (rejecting a prescriptive easement claim in part because the claimant utilized the subject property while a lease was in effect and the lessor permitted the public to hunt on the property); *see also The Law of Easements & Licenses in Land* § 5:9 (“Permission may take the form of an oral or written arrangement . . .”); 28A C.J.S. *Easements* § 45, Westlaw (database updated April 2026) (“Permission sufficient to preclude a claim for a prescriptive easement may be established by a written or oral license, or may be inferred from surrounding circumstances”); *Kralicek v. Chaffey*, 998 S.W.2d 765, 769 (Ark. Ct. App. 1999) (written agreement and subsequent unspoken understanding established that use of the alley was permissive); *Brown v. Heidersbach*, 360 N.E.2d 614, 621 (Ind. Ct. App. 1977) (holding that express easement of access to lake rendered use permissive); *Peters v. Hubbard*, 475 P.3d 730, 738 (Mont. 2020) (holding that the use of roadway pursuant to a written ingress-and-egress easement was insufficient to establish a public prescriptive easement along the roadway); *Burcalow Fam., LLC v. Corral Bar, Inc.*, 313 P.3d 182, 187 (Mont. 2013) (holding that a written license agreement rendered use of land permissive); *Asche v. Land & Bldg. Known as 64-29 232nd St.*, 784 N.Y.S.2d 577, 579 (N.Y. App. Div. 2004) (holding that the written license permitting the use of a strip of land rebutted the presumption of adverse use).

Moreover, the circuit court found in the decretal part of the Order that, “[e]ven if the 1984 Easement is invalid, it provides written and public permission which was never revoked, making any use of the access route permissive, defeating [Gecy’s] claim for a prescriptive easement.” [Order at 27, R. ____]. The circuit court further stated: “Therefore, regardless of whether the 1984 Easement is valid or invalid, or if parts of it are valid or invalid, it provides express written

permission to use the road, and this permission is recorded in the public records for everyone to see.” [*Id.* at 19 n.6, R____]. Gecy neither directly challenges nor confronts this ruling and finding. Because this ruling and finding provide an independent basis for rejecting Gecy’s prescriptive easement claim, affirmance on this issue is required. *See Jones v. Lott*, 387 S.C. 339, 346, 692 S.E.2d 900, 903 (2010) (“Under the two[-]issue rule, where a decision is based on more than one ground, the appellate court will affirm unless the appellant appeals all grounds . . .”).

Gecy attempts to avoid this conclusion by arguing that the 1984 Easement was executed by only one of the Wright cotenants and therefore did not render the use permissive as to the remaining cotenants. That position is difficult to reconcile with Gecy’s position throughout this litigation that the 1984 Easement created a valid express easement.⁷ She cannot rely on the 1984 Easement to establish her access rights while disregarding its legal effect when attempting to prove adversity.

Gecy’s partial-permission theory would require treating the same use as permissive as to one cotenant while simultaneously adverse as to the remaining cotenants, a result for which Gecy cites no South Carolina authority. The residents used a single roadway under a single claimed right of access. They did not claim one right against Lewis Wright and a different right against the

⁷ Indeed, throughout this litigation Gecy has treated the 1984 Easement as the operative instrument governing access over the Highway 280 Private Road. In reply to Integra’s counterclaims, she admitted allegations that the 1984 Easement benefits her property and adjoining property and that Integra’s predecessors in title were granted the rights set forth in that Easement. [*Reply to Answer & Am. Countercls.* ¶ 3, R. ____ (admitting *Am. Countercls.* ¶ 119, R. ____)]. She likewise admitted that any easement rights associated with the Highway 280 Private Road are nonexclusive. [*Reply to Answer & Am. Countercls.* ¶ 8, R. ____ (admitting *Am. Countercls.* ¶ 121, R. ____)].

remaining cotenants. Nor does Gecy explain what easement interest would result from such a divided analysis.⁸

In addition to the easement document itself, the sworn testimony also shows the roadway was used with permission. For example, Mr. McNeal testified that he gave the residents of Belleview Bluff permission to use the access route. [*McNeal Dep.* p. 72, R. ____]. He testified that the 1984 Easement permitted the residents to use the road, and he never took any action to revoke that permission. [*Id.* 103–04., R. ____].

David Gasque, a surveyor who has worked on the property since 2007, likewise testified that Belleview Bluff residents used the roadway with the understanding that it would remain available until a replacement road could be constructed. [*Gasque Dep.* p. 197. p. 24–25; 32–34; 57; 218–29, R. ____].

Thus, independent of the 1984 Easement, the record contains un rebutted testimony from both a property owner and a long-time surveyor with knowledge of this specific property confirming that the roadway was being used with permission rather than under an adverse claim of right.

Moreover, the Gecy Affidavits contain broad assertions regarding roadway use dating back decades before either affiant acquired personal knowledge of the relevant facts. To the extent those assertions purport to describe the beliefs, understandings, or use of prior landowners, they are based on hearsay rather than personal knowledge. *See* Rule 56(e), SCRPC.

⁸ This Court need not determine the precise effect of permission granted by one cotenant because the circuit court independently concluded that the 1984 Easement provided express written permission for use of the roadway and that the easement created a valid express easement governing the parties' rights. It should be noted that cotenants have an equal right to possession of the whole, such that any one co-tenant in common could grant permission subject to the rights of other co-tenants. *See generally Felder v. Fleming*, 278 S.C. 327, 330, 295 S.E.2d 640, 642 (1982) ("The possession of one tenant in common is the possession of all").

The affidavits likewise contain conclusory statements that roadway use was ‘adverse,’ ‘exclusive,’ ‘continuous,’ or ‘under a claim of right,’ and repeatedly attempt to establish decades of historical use through hearsay and legal conclusions rather than admissible facts. *See Dawkins v. Fields*, 354 S.C. 58, 68, 580 S.E.2d 433, 438 (2003).

Even if considered, such assertions do not identify any distinct act by which the owners of Lot 4 repudiated the permission reflected in the 1984 Easement or otherwise asserted a hostile claim against the servient estate. And the affidavits are largely silent regarding the use of the Lot 4 owners during the key years between 2002 and 2022—precisely the period Gecy must prove for her own parcel.

Accordingly, the affidavits do not create a genuine issue of material fact as to adversity.

B. Gecy cannot meet other elements of a prescriptive easement.

Even apart from adversity, the evidentiary record presents a separate problem for Gecy’s claim. Because she acquired Lot 4 in 2021, she necessarily depends on the use of her predecessors in title to satisfy the prescriptive period. The record, however, contains only limited evidence concerning how Lot 4 was used during the relevant period.

The dates matter because the claim concerns Lot 4, not Belleview Bluff as a whole. Prescription is established lot by lot, not neighborhood by neighborhood. The Wrights conveyed Lot 4 in 1968. Sixteen years later, the 1984 Easement expressly granted Belleview Bluff lot owners permission to use the roadway. Before twenty years of adverse use could accrue, the roadway became subject to a recorded grant of permission.

Whatever prescriptive period Gecy seeks to rely upon was interrupted by the 1984 Easement. From that point forward, Belleview Bluff owners were using the roadway pursuant to a written grant of permission. Nothing in the record suggests that permission was withdrawn or

that roadway users later asserted a hostile claim inconsistent with the rights recognized in the 1984 Easement.

Gecy did not acquire Lot 4 until 2021 and filed suit in 2022. Accordingly, to prevail on her prescriptive easement claim, Gecy was required to provide evidence meeting all the elements of a prescriptive easement dating back to 2002. *See Bundy*, 412 S.C. at 313–14, 772 S.E.2d at 175 (“Nor is tacking permissible when it is unclear that use by [the] claimant’s predecessor was adverse. In order to establish continuity of use by tacking, a claimant must show that predecessors in title actually used the alleged easement.”) (quoting James W. Ely, Jr., and Jon W. Bruce, *The Law of Easements and Licenses in Land*, § 5:19); *Carolina Ctr. Bldg. Corp. v. Enmark Stations, Inc.*, 433 S.C. 144, 155, 857 S.E.2d 16, 22 (Ct. App. 2021) (“To satisfy the twenty-year prescriptive period, the claimant can tack his use to use by prior owners, provided the prior owners’ use also satisfies the prescriptive easement elements.”).

Because any prescriptive easement would be appurtenant to Lot 4, Gecy was required to prove the use of Lot 4 and its predecessors in title. Yet Gecy’s immediate predecessor in title is deceased, and the only family witness she identified testified that he did not begin living on the property until approximately 2005 or 2006. [*Bellamy Dep.* 15, R. ____]. The record therefore contains no evidence concerning Lot 4’s use during much of the period necessary to establish prescription.

Much of Gecy’s evidence concerns how owners of other Belleview Bluff lots used the roadway. Evidence concerning neighboring lots may provide background, but it does not establish the elements of a prescriptive easement for Lot 4. *See Bundy*, 412 S.C. at 313–14, 772 S.E.2d at 175 (“[a] claimant may not tack the [the] claimant’s adverse use to that of strangers.”) (quoting James W. Ely, Jr., and Jon W. Bruce, *The Law of Easements and Licenses in Land*, § 5:19);

Simmons, 419 S.C. at 233, 797 S.E.2d at 392 (“In order to establish a prescriptive easement, *the claimant* must identify the thing enjoyed, and show *his use* has been open, notorious, continuous, uninterrupted, and contrary to the true property owner’s rights for a period of twenty years.” (emphasis added)); *HP Ltd. P’ship v. Kenai River Airpark, LLC*, 270 P.3d 719, 732 (Alaska 2012) (holding a prescriptive claimant must rely on its own use or that of predecessors in interest, and not on use by other lot owners); *Brewer v. Flankey*, 660 So. 2d 761, 762 (Fla. Dist. Ct. App. 1995) (“A party claiming a private prescriptive easement may only rely on use of the subject property by himself or his predecessors in title in attempting to show continuous use for the prescribed time period.”); *Ballard v. Harman*, 737 N.E.2d 411, 418–19 (Ind. Ct. App. 2000) (holding that tacking is not permitted between claimant and party who was not predecessor in title); *Houghton v. Johnson*, 887 N.E.2d 1073, 1085 (Mass. App. Ct. 2008) (“each plaintiff was required to show more than a collective but individually sporadic and nonexclusive use of the disputed area, one of the many lots fronting on Kingsbury Beach, in order to be entitled to the benefit of the presumption”).

The Gecy Affidavits do not supply the missing proof. The affidavits baldly assert that roadway use since the 1950s and 1960s was “exclusive,” “open,” “notorious,” “continuous,” and “contrary to the true property owner’s rights,” and that such use “met all the elements of a Prescriptive Easement under South Carolina Law.” [*Benjamin Gecy Aff.* ¶¶ 17-21; *Christina Gecy Aff.* ¶¶ 8–10, R. ____]. Those assertions are not competent evidence establishing either adversity or continuity. The affiants acquired personal knowledge only recently and could not testify from personal knowledge regarding decades of roadway use by prior owners. To the extent the affidavits purport to describe use dating back to 1959 or 1968, they necessarily rest on hearsay and information obtained from others. To the extent they characterize such use as “adverse,” “exclusive,” or sufficient to satisfy the elements of a prescriptive easement, they constitute legal

conclusions that must be disregarded. *See Dawkins*, 354 S.C. at 68, 580 S.E.2d at 438.⁹

Ultimately, Gecy's prescriptive easement claim fails for at least two independent reasons. The 1984 Easement provided written permission for the use of the roadway, defeating the required element of adverse use. Even apart from adversity, Gecy failed to present evidence showing the continuous, adverse use of Lot 4 necessary to satisfy the prescriptive period.

Accordingly, the circuit court correctly granted summary judgment on Gecy's prescriptive easement claim.¹⁰

VI. THE CIRCUIT COURT PROPERLY GRANTED SUMMARY JUDGMENT ON GECY'S CLAIM OF AN EXCLUSIVE EASEMENT BECAUSE GECY ADMITTED ANY EASEMENT RIGHTS WERE NONEXCLUSIVE AND THE 1984 EASEMENT CONTAINS NO GRANT OF EXCLUSIVITY.

Having admitted that any roadway easement is nonexclusive, Gecy cannot recast that easement as a private driveway to enjoin other lawful users; her own judicial admissions foreclose her claims of exclusivity. She admitted below that any easement rights associated with the Highway 280 Private Road were nonexclusive. In response to Integra's counterclaim, Gecy admitted that references to an "exclusive easement" were a scrivener's error and admitted that any

⁹For example, Gecy asserted that "[t]he Owners and our invitees have been the only users of Roberta Lane and the Highway 280 Private Road for the last sixty-two (62) years whereby we have used the roads as our private, exclusive roads." [C. Gecy Aff. ¶ 17, R. ____]. Yet Gecy admitted in her deposition that she had no personal knowledge concerning roadway use before 2020 and that her assertions regarding decades of historical use were based on what she had heard from others. [C. Gecy Dep. 130:1–131:22, R. ____]. Likewise, Benjamin Gecy admitted that his assertions concerning twenty to sixty years of roadway use were based on hearsay rather than personal knowledge. [B. Gecy Dep. Vol. I 348:13–349:8, R. ____; Vol. II 13:17–14:5; 17:8–18:11; 19:15–19, R. ____]. These are precisely the types of hearsay assertions and conclusory statements that Rule 56(e) requires courts to disregard.

¹⁰The circuit court further held that "[e]ven if [Gecy] had a prescriptive easement, Integra and its predecessors had a right to relocate the access route." [Order at 27, R. ____]. As explained in Section IV above, Gecy failed to identify evidence that the relocation significantly lessened the utility of the easement, increased the burdens associated with its use and enjoyment, or frustrated its purpose. Accordingly, even assuming the existence of a prescriptive easement, summary judgment would remain proper.

easement rights associated with the Highway 280 Private Road were nonexclusive. [*Reply to Amended Counterclaim* ¶ 5, R. ____]. The circuit court relied on those admissions in granting summary judgment. [*Order* at 21, R. ____].

Parties are bound by their pleadings and may not later advance positions contrary to their judicial admissions. *Postal v. Mann*, 308 S.C. 385, 387, 418 S.E.2d 322, 323 (Ct. App. 1992); *Johnson v. Alexander*, 413 S.C. 196, 202, 775 S.E.2d 697, 700 (2015). Significantly, Gecy does not contend that her admission was withdrawn, amended, or otherwise ineffective. Nor does she argue that the circuit court erred in treating the admission as binding. Her appellate argument proceeds as though the admission does not exist. Because Gecy admitted that any easement rights associated with the roadway were nonexclusive, the circuit court’s ruling should be affirmed on that basis alone.

Even if Gecy had made no judicial admission, the 1984 Easement would not support her claim of exclusivity. The 1984 Easement independently confirms that no exclusive rights were conveyed. It contains no language creating exclusionary rights. Exclusive easements are disfavored and are not created by implication. “Exclusive easements are not generally favored, and an instrument creating an easement must be construed as creating a nonexclusive easement unless the instrument clearly shows an intention that the easement is to be exclusive.” 28A C.J.S. *Easements* § 222, Westlaw (database updated April 2026). Likewise, “[a]bsent an express provision in a grant or a reservation, an easement is not an exclusive interest in the burdened land.” Jon W. Bruce et al., *The Law of Easements & Licenses in Land* § 8:20 (2026). South Carolina follows the same principle. The owner of the servient estate retains “the right to the use and possession of the land covered by the right of way for any purpose not incompatible with the

purposes for which the easement was granted or acquired.” *Beaudrot*, 63 S.C. at 269, 41 S.E. at 300.

The language of the 1984 Easement confirms that no exclusive rights were conveyed. It expressly recognizes that the location of the roadway may change in the future and provides that the existing roadway shall remain open until “a substitute, usable, and well maintained roadway is relocated.” [1984 Easement, R. ____]. The 1984 Easement further provides that the right of ingress and egress exists for the benefit of the present and future owners of the designated lots and “any future lots developed in this subdivision.” [1984 Easement, R. ____].

Those provisions cannot be squared with Gecy’s claim of exclusivity. The relocation clause recognizes that the servient owner retained the authority to relocate the roadway. The 1984 Easement also contemplates extending ingress and egress rights to future owners and future lots within the subdivision, reflecting an expectation that the subdivision would continue to develop and that additional users would enjoy the access route. Read as a whole, the 1984 Easement preserves substantial rights in the servient owner and does not confer the exclusive rights Gecy claims.

To be sure, Gecy contends that the 1984 Easement is exclusive because it identifies the persons entitled to benefit from it and cites various authority. *Appellant’s Brief* at 41. But identifying the beneficiaries of an easement does not create exclusionary rights. Easement instruments routinely identify the dominant estate and the persons entitled to use the easement. If that alone were enough to create exclusivity, virtually every appurtenant easement would be exclusive. The law is otherwise. The 1984 Easement identifies who may enjoy the right of ingress and egress. It does not prohibit the servient owner from using the property, from granting

additional rights consistent with the easement, or from otherwise exercising ownership rights that are not inconsistent with the easement holders' access rights.

Gecy's reliance on *Morris v. Townsend*, 253 S.C. 628, 172 S.E.2d 819 (1970), is misplaced. *Morris* turned on the language of the instruments before the court and the rights actually conveyed by those instruments. The court declined to infer rights that were not reflected in the governing documents. *Id.* at 634–36, 172 S.E.2d at 822–23. The same reasoning applies here. Unlike the instruments at issue in *Morris*, the 1984 Easement contains no language granting exclusivity.

Gecy's reliance on *Romero v. Shih*, 541 P.3d 1112 (Cal. 2024), is likewise misplaced. *Romero* involved an implied easement arising from a residential driveway dispute and addressed whether the circumstances surrounding the severance of two parcels established an implied easement of unusually broad scope. *Id.* at 1115–16. In resolving that issue, the California Supreme Court explained that “the court’s primary duty in cases involving easements created by grant or reservation—whether express or implied—is to give effect to the intent of the parties to the relevant land transaction.” *Id.* at 1123–24. Applying that principle, the court held that the scope of the easement depended upon the parties’ intent, not merely the dominant owner’s historical use of the property. *Id.* Here, the parties’ intent is not left to implication. It is expressed in the 1984 Easement itself, which contains no grant of exclusive use. To the contrary, it expressly authorizes relocation of the roadway and extends ingress and egress rights to future owners and future lots within the subdivision. Read as a whole, the 1984 Easement preserves substantial rights in the servient owner and is fundamentally inconsistent with the exclusionary rights Gecy now claims.

Gecy also relies on two Restatement comments addressing prescriptive servitudes. *See Restatement (Third) of Property: Servitudes* § 2.17 cmt. a; *id.* § 4.9 cmt. d. The comment on which Gecy relies discusses the nature of a servitude acquired by prescription and states that an exclusive

use may result in an exclusive servitude. *Id.* § 2.17 cmt. a. But Gecy admitted that any easement rights associated with the roadway were nonexclusive, and the parties' rights are governed by the 1984 Easement, which contains no grant of exclusivity and recognizes continuing rights in the servient owner. Nor has Gecy identified any South Carolina decision holding that a roadway prescriptive easement is exclusive as against the owner of the servient estate. The Restatement's discussion of prescription cannot overcome the language of the 1984 Easement or alter the settled principle under the South Carolina law that the owner of the servient estate retains the right to use property burdened by an easement so long as that use is not inconsistent with the easement holder's rights. *See Beaudrot*, 63 S.C. at 269, 41 S.E. at 300.

Finally, the Gecy Affidavits do not create a genuine issue of material fact on this issue. Benjamin Gecy and Christina Gecy baldly assert that Belleview Bluff residents used the roadway "exclusively." [*Benjamin Gecy Aff.* ¶¶ 8, 13-14, R. ____; *Christina Gecy Aff.* ¶¶ 8, 10, R. ____]. Those assertions are conclusory and do not create a genuine issue of material fact as to exclusivity. At most, the affidavits describe regular use and maintenance of the roadway by subdivision residents. That is not evidence of an exclusive easement.

The circuit court correctly concluded that any easement rights held by Gecy are nonexclusive and properly granted summary judgment on this issue.

VII. THE CIRCUIT COURT PROPERLY GRANTED SUMMARY JUDGMENT ON GECY'S CLAIM FOR PERMANENT INJUNCTIVE RELIEF BECAUSE GECY FAILED TO ESTABLISH ANY VIOLATION OF A PROTECTED EASEMENT RIGHT.

Gecy's request for permanent injunctive relief presents no issue independent of her underlying easement claims. It rises or falls with those claims.

By the time of summary judgment, the apartment project and the relocated roadway had been constructed pursuant to governmental approvals and recorded plats. On these facts, ordering

demolition and restoration would undermine the settled expectations of both the servient owner and third-party residents, a result that equity does not favor where no underlying easement violation exists.

Permanent injunctive relief is a remedy, not an independent source of substantive rights. *See* Randolph R. Lowell et al., *South Carolina Equity: A Practitioner's Guide* (S.C. Bar 2010) (“A pleading for injunctive relief should be coupled with a distinct cause of action, as an injunction is a remedy for a violation of law.”); *see also* 42 Am. Jur. 2d *Injunctions* § 11, Westlaw (database updated May 2026) (“A permanent injunction is . . . a remedy for an underlying wrong rather than a cause of action.”).

Gecy’s request for injunctive relief rests on two propositions: that Integra lacked authority to relocate the access route and that she acquired prescriptive rights in the former route. The circuit court rejected both. Because the 1984 Easement authorized relocation and Gecy failed to establish a prescriptive easement, no underlying easement violation remains to support injunctive relief. Once Gecy’s substantive easement claims fail, her request for permanent injunctive relief fails with them.

The injunction Gecy seeks is not merely prohibitory. It would require dismantling completed improvements associated with the apartment development, including apartment buildings, and restoring a roadway that no longer exists. Given that the 1984 Easement authorized relocation and Gecy failed to establish any prescriptive right in the former route, the circuit court properly declined to grant that extraordinary relief. *See Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 907 (2004) (“An injunction is a drastic remedy issued by the court in its discretion to prevent irreparable harm suffered by the plaintiff.”).

Gecy likewise failed to present evidence that the replacement roadway violates the 1984 Easement. Her affidavits instead address Roberta Lane, temporary construction activities and disruptions, increased traffic, and the destruction of the former route. None of those complaints concerns the condition or operation of the completed relocated roadway itself, or whether it is “a substitute, usable, and well-maintained roadway.”

Gecy’s newly raised obstruction theories do not change the result. As explained above, her appellate arguments concerning curbing, parking pads, light poles, utility infrastructure, and the alleged failure to provide access over the “full extent” of the easement area were not raised to or ruled upon by the circuit court. They are therefore unpreserved. In any event, Gecy cites no evidence that the relocated roadway is not the “substitute, usable, and well-maintained roadway” required by the 1984 Easement.

Because Gecy failed to identify evidence of any violation of a protected easement right, there is nothing for a court of equity to enjoin. Summary judgment was therefore proper on Gecy’s request for a permanent injunction.

VIII. THE CIRCUIT COURT PROPERLY GRANTED INTEGRA’S MOTION TO STRIKE THE INADMISSIBLE PORTIONS OF THE GECY AFFIDAVITS.

Gecy’s final argument concerns the circuit court’s Rule 56(e) rulings. Notably, the circuit court expressly found that its summary judgment rulings did not depend upon the exclusion of any affidavit testimony because no genuine issue of material fact existed regardless. [*Order* at 13, R. ____]. The court nevertheless correctly disregarded those portions of the affidavits that failed to satisfy Rule 56(e).

Gecy’s argument begins with procedure rather than substance. She devotes considerable attention to Integra’s use of a motion to strike, but the dispositive question has never been the label attached to Integra’s objections. What matters is whether the challenged affidavit statements

satisfied Rule 56(e), SCRCP. The circuit court correctly disregarded the portions that failed that test.

Motions to strike have long been recognized as the ordinary vehicle for challenging affidavits that fail to satisfy the requirements governing summary-judgment evidence. *See* 49 C.J.S. *Judgments* § 336, Westlaw (database updated April 2026) (“An affidavit supporting or opposing a motion for summary judgment is subject to an objection or motion to strike by the opposing party”); 10B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2738 (4th ed. 2026) (“Finally, a party must move to strike an affidavit that violates [Rule 56(e)]. The failure to do so will result in the waiver of the objection . . .”). South Carolina commentators have recognized the same practice: “[a]ffidavits that fail to comply with the Rules of Procedure should be stricken and disregarded,” and “[t]he proper avenue” for seeking exclusion on summary judgment “is by motion to strike pursuant to Rule 56(e).” Christopher M. Kelly & Laura G. Simons, *Attacking Affidavits: Maintaining the Integrity of the Process*, S.C. Law., Jan. 2010, at 43.

Whatever label is attached to the motion, Rule 56(e) required the court to consider only competent evidence. Rule 56(e), SCRCP, expressly limits summary judgment affidavits to matters based on personal knowledge, admissible facts, and competent testimony. South Carolina courts enforce those limitations. *See Hall v. Fedor*, 349 S.C. 169, 175, 561 S.E.2d 654, 657 (Ct. App. 2002) (“materials used to support or refute a motion for summary judgment must be those which would be admissible in evidence”). Courts likewise recognize that affidavits containing legal conclusions, speculation, hearsay, or unsupported assertions carry no weight at summary judgment. *Dawkins* 354 S.C. at 68, 580 S.E.2d at 438 (“[U]ltimate or conclusory facts and conclusions of law, as well as statements made on ... ‘information and belief,’ cannot be utilized

on a summary-judgment motion.”) (quoting 10B Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure: Civil 3d* § 2738 (1998)); *Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 888 (1990) (“The object of [Rule 56] is not to replace conclusory allegations of the complaint or answer with conclusory allegations of an affidavit.”); *Papasan v. Allain*, 478 U.S. 265, 266 (1986) (stating courts need not assume the truth of legal conclusions couched as factual allegations); 3 Am. Jur. 2d *Affidavits* § 13, Westlaw (database updated May 2026) (“Statements in affidavits as to opinion, belief, or conclusions of law are of no effect. When ultimate facts or conclusions of law appear in an affidavit which also contains the proper subject of affidavit testimony, facts within the personal knowledge of the affiant, the extraneous material should be disregarded and only the facts considered.”). Those principles apply directly here.

The challenged statements were not excluded for technical defects. Integra identified bald assertions concerning decades of roadway use outside the affiants’ personal knowledge, legal conclusions concerning easement rights, hearsay statements regarding historical property use, and assertions inconsistent with prior deposition testimony. At the hearing, counsel for Integra argued the affidavits “contain[] conclusory allegations,” “things [the affiant] has absolutely no personal knowledge of,” “legal conclusions everywhere,” and “inadmissible conversations.” [Hearing Tr. pp. 11–12, R. ____]. Counsel further argued the affidavits violated Rule 56 because affidavits “must be made on personal knowledge and must contain admissible evidence.” [Hearing Tr. pp. 11–12, R. ____]. Counsel also explained that the affidavits improperly attempted to manufacture factual disputes through conclusory assertions contradicted by prior deposition testimony. [Hearing Tr. pp. 23–24, 59–60, R. ____]. Counsel for Gasque joined the motion and argued that the “majority” of the affidavit consisted of hearsay, legal conclusions, and matters not based on personal knowledge. [Hearing Tr. p. 70, R. ____].

Integra used a motion to strike to present its Rule 56(e) objections to the circuit court. Even apart from the motion to strike, the circuit court remained obligated under Rule 56(e), SCRCp, to consider only competent summary judgment evidence. The court therefore had both the authority and the obligation to disregard portions of affidavits containing hearsay, legal conclusions, conclusory allegations, matters outside the affiants' personal knowledge, and assertions contradicting prior sworn testimony.

Gecy's arguments to the contrary are unavailing. Gecy's reliance on *Steinke v. S.C. Dep't of Labor, Licensing & Regul.*, 336 S.C. 373, 520 S.E.2d 142 (1999), is misplaced. *Steinke* merely recognized that a trial court's decision to strike insufficient or irrelevant material is reviewed for abuse of discretion. The record demonstrates no abuse of discretion here—Gecy has not even identified a single stricken statement that would supposedly have altered the outcome on the issues presented in this appeal.

Gecy also argues the circuit court erred by failing to specify line by line which portions of the affidavits were stricken. That argument fails as well. The circuit court expressly acknowledged that it would consider "the affidavit issues" in ruling on summary judgment. [Hearing Tr. p. 12., R. __]. The motion itself identified the objectionable material, the evidentiary defects were argued extensively on the record, and the basis for the ruling is readily ascertainable from the record as a whole. Under these circumstances, the circuit court was not required to annotate each sentence of the affidavits in its written order.

Nor has Gecy identified any resulting prejudice. Even now, she does not point to a specific statement that should have been considered, explain why it satisfied Rule 56(e), and show how its exclusion affected the summary judgment ruling. Instead, she continues to rely on the same categories of testimony Integra challenged below.

Her request for a chance to revise the affidavits—essentially a do-over—fares no better. She suggests the circuit court was required to give her an opportunity to revise the affidavits after Integra identified Rule 56 defects. Nothing in Rule 56 imposes such a requirement. Rule 56(e), SCRPC, requires parties opposing summary judgment to submit competent admissible evidence at the time the motion is heard. Rule 56 does not entitle a party opposing summary judgment to a second opportunity to redraft affidavits. Gecy cites no authority requiring a circuit court to permit a party to revise or rehabilitate defective affidavits after Rule 56 objections are raised, particularly where the defects involve substantive deficiencies such as hearsay, lack of personal knowledge, legal conclusions, and assertions contradicting prior sworn testimony. The circuit court acted within its discretion in evaluating the affidavits as submitted and determining whether they constituted competent summary judgment evidence.

CONCLUSION

This appeal ultimately concerns a roadway relocation expressly contemplated by a recorded easement executed more than forty years ago. The circuit court correctly held that the 1984 Easement authorized relocation of the access route, that Integra provided the “substitute, usable, and well-maintained roadway” required by that easement, and that Gecy failed to establish any basis for challenging the right to relocate or disturbing the completed relocation. Because the undisputed evidence demonstrates that Integra acted within its easement rights and because Gecy failed to present evidence creating a genuine issue of material fact supporting her remaining theories of recovery, the Order granting summary judgment should be affirmed in all respects.

Respectfully submitted,

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