

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Albert D. Barwick, Ann R. Barwick, Gordon G.
Holscher, II, Billy R. Jeffcoat, Connie M. Jeffcoat,
Harriet A. Jones, Ernest J. Matheson, Jr., Thomas L.
Reading, Kenneth W. Pippen, Jr., and Ignas K.
Skrupskelis, Appellants,

v.

Edisto Lake, Inc., Edisto Lake Ridge, LLC, Edisto Lake
Property Owner's Association, Inc., and Terry M. Hutto,
Jr., Respondents.

Appellate Case No. 2024-000898

Appeal From Aiken County
Courtney Clyburn Pope, Circuit Court Judge

Opinion No. 2026-UP-382
Heard May 5, 2026 – Filed July 22, 2026

AFFIRMED

S. Jahue Moore, of Moore Bradley Myers, PA, of West
Columbia, for Appellants.

William Joseph Moore, Jr., of Gertz & Moore, LLP, of
Columbia, for Respondents Edisto Lake, Inc., and Edisto
Lake Ridge, LLC.

Clarke Wardlaw McCants, IV, and Clarke W. McCants,
III, of Nance & McCants, of Aiken, for Respondent
Terry M. Hutto, Jr.

Paul Knapp Simons, Jr., of Hull Barrett, PC, of Aiken,
for Respondent Edisto Lake Property Owner's
Association, Inc.

PER CURIAM: Appellants are residents of the Edisto Lake Community (Community) who brought an action against Edisto Lake, Inc., Edisto Lake Ridge, LLC, Edisto Lake Property Owner's Association, Inc., and their neighbor, Terry M. Hutto, Jr., (Respondents) over concerns about Hutto hunting on his property in Edisto Lake Ridge. Appellants sought declarations that hunting was prohibited by the Community's restrictive covenants and that Hutto's activities were in direct violation. The trial court found that the covenants permitted hunting except in specific areas. We affirm.

BACKGROUND

The Edisto Lake Community is a private, gated residential community around Edisto Lake in Aiken County. The Community has two neighborhoods: Edisto Lake Neighborhood consisting of smaller lots surrounding the lake, (lake lots) and Edisto Ridge consisting of larger lots with no lake frontage (ridge lots). The lake lots were developed first and sold to various buyers, including Appellants. These initial lots were not burdened by overall restrictive covenants, but their deeds were indenture deeds imposing various use and aesthetic restrictions. The indenture deeds allow limited hunting, stating: "No hunting will be permitted on or over Edisto Lake of [sic] on any of the roads or parkways, adjacent to this property. The only hunting permitted on adjoining property of Seller shall be on or over specifically planted fields and by invitation of seller."

The indenture deeds also subjected owners to the authority of—and membership in—the Edisto Lake Property Owners Association (POA). The POA currently owns the lake, roadways, and common areas in the Community. In 1992, the POA filed a declaration of restrictions and covenants (Lake Covenants). The Lake Covenants address use of the lake, the roadways, maintenance, and dues; however, the covenants are silent with respect to hunting.

The ridge lots were initially undeveloped; they were not considered a part of the Community and were not subject to the deed restrictions. In December 2003, Edisto Lake, Inc., conveyed approximately 690 acres of land outside of the perimeter road encircling Edisto Lake to Edisto Lake Ridge, LLC. The deed did not contain the deed restrictions imposed on the lake lots, nor was the land subject to the Lake Covenants. A few years later, the ridge lots were developed to be an "equestrian friendly residential community . . . with riding trails and facilities." The ridge lots were subsequently incorporated into the Community and POA, and a Declaration of Covenants, Conditions, and Restrictions (Ridge Covenants) was recorded. The Ridge Covenants contain the following provision:

Section 21. Hunting: No hunting will be permitted on or over Edisto Lake, or on any roads or parkways within the Property.

Around 2018, Respondent Hutto began discussions with the Community's developer, Edwin Cooper, Jr., about purchasing several lots. Hutto and Edisto Lake Ridge, LLC, entered into a Purchase Agreement in December of 2018. Within the Agreement was a provision that "as per the Edisto Lake Ridge restrictions to be amended[,] hunting would be permitted only on tracts of fifty acres or more of contiguous land under the control of one owner. The Ridge Covenants were never amended, however, and Hutto purchased approximately 219.96 acres in Edisto Ridge in 2019.

Soon after Hutto moved in, Appellants reported hearing gunshots coming from his property. Neighbors who ventured onto Hutto's property—without his knowledge—took photos of deer stands and shell casings. Appellants filed an action claiming that Hutto was hunting in violation of the Community's covenants and restrictions.¹

The matter was heard on March 21, 2022, before the circuit court. Prior to trial, the parties stipulated that the Ridge Covenants and the Lake Covenants applied to both the lake lots and the ridge lots (hereinafter "Covenants" for all applicable restrictions). Hutto, Cooper, and numerous Appellants testified before the court. Although neighbors testified they heard shooting, none had ever seen Hutto, his family members, or anyone else shooting guns on his property or removing dead animals from the property. Cooper's attorney sought dismissal of the claims

¹ Originally, Hutto and Cooper (in his individual capacity) were the only defendants named.

against him, and Hutto's attorneys moved to join the corporate entities as necessary parties. The court granted both motions and ruled that the case would reconvene upon joinder of the necessary parties.

Appellants thereafter filed an amended complaint joining the corporate entities as defendants. On November 15, 2022, the parties appeared for a pre-trial conference. The parties agreed that additional testimony and documentation were unnecessary, and the court could rule on the record from the March hearing.

In a Final Order filed May 8, 2024, the court found the following:

[T]he covenants and restrictions for the Edisto Lake Community allow hunting within certain areas of that development. Those covenants and restrictions, however, do not allow hunting on or over Edisto Lake, or on any roads or parkways located within the Property. By implication, the discharge of firearms within the Edisto Lake Community for purposes of hunting is allowed, subject to the remaining provisions of the covenants and restrictions.

Appellants filed a motion to reconsider on May 15, 2024; the motion was denied on May 28, 2024. This appeal followed.

STANDARD OF REVIEW

"Declaratory judgments in and of themselves are neither legal nor equitable. The standard of review for a declaratory judgment action is therefore determined by the nature of the underlying issue." *Campbell v. Marion Cnty. Hosp. Dist.*, 354 S.C. 274, 279, 580 S.E.2d 163, 165 (Ct. App. 2003) (citations omitted). "An action to enforce restrictive covenants by injunction is in equity." *S.C. Dept. of Nat. Res. v. Town of McClellanville*, 345 S.C. 617, 622, 550 S.E.2d 299, 302 (2001). "On appeal from an equitable action, an appellate court may find facts in accordance with its own view of the evidence." *Bluffington v. T.O.E. Enter.*, 383 S.C. 388, 391, 680 S.E.2d 289, 290 (2009). However, "[we should] not disregard the findings of the trial court, which saw and heard the witnesses and was in a better position to evaluate their credibility." *Id.*

LAW/ANALYSIS

I. Interpretation of the Covenants

The court found that section 21 of the Ridge Covenants clearly and unambiguously prohibits hunting over the lake, the roads, and the parkways, but permits hunting in the remaining areas of the Community. Appellants argue that the court erroneously isolated section 21 rather than construing the Covenants as a whole. They argue that had the court looked at the Covenants as a whole, it would have shown a "clear intent" to ban hunting in the Community outright. We disagree.

"Restrictive covenants are contractual in nature [and] the paramount rule of construction is to ascertain and give effect to the intent of the parties as determined from the whole document." *Taylor v. Lindsey*, 332 S.C. 1, 4, 498 S.E.2d 862, 863–64 (1998). "The court may not limit a restriction in a deed, nor . . . will a restriction be enlarged or extended by construction or implication beyond the clear meaning of its terms even to accomplish what it may be thought the parties would have desired" *Id.* at 864, 498 S.E.2d at 4 (quoting *Forest Land Co. v Black*, 216 S.C. 255, 262, 57 S.E.2d 420, 424 (1950)). "[R]estrictions as to the use of real estate should be strictly construed and all doubts resolved in favor of free use of the property . . . [but not so strictly] as to defeat the plain and obvious purpose of the instrument." *Id.*

First, we agree with the court that the plain language of section 21 is clear and unambiguous. The only potential ambiguity—as raised by Appellants in their Motion to Reconsider—exists in whether "Edisto Lake" refers to the lake itself or the entire Community. We agree with the circuit court's finding that it refers to the lake. If the restriction against hunting "on or over" Edisto Lake was meant to cover the entire Community, then the addition of "or on any roads or parkways within the Property" would be superfluous; the blanket prohibition would already include the roads and parkways.

Appellants argue the court should have looked beyond the language of section 21 to the Covenants in their entirety, and found that hunting was incompatible with the residential, equestrian-friendly nature of the neighborhood. We disagree. The Ridge Covenants and Lake Covenants specifically prohibit various other activities, such as certain watersports on the lake and the storage of commercial vehicles and/or equipment on any lot. If the Covenants were meant to impose an outright ban on hunting, a general ban could have been included. Instead, the Covenants impose a narrow restriction which only prohibits hunting over the lake and the

Community's roads and parkways. This court will not impose additional language in the Covenants or re-write the Covenants where there is no clear intention to ban hunting. *See Cmty. Servs. Assocs., Inc. v. Wall*, 421 S.C. 575, 584, 808 S.E.2d 831, 836 (Ct. App. 2017) ("[A] restriction on the use of the property must be created in express terms or by plain and *unmistakable* implication, and all such restrictions are to be strictly construed, with all doubts resolved in favor of the free use of [the] property." (emphasis in original) (first alteration in original) (quoting *Hardy v. Aiken*, 369 S.C. 160, 166, 631 S.E.2d 539, 542 (2006))); *see also Taylor*, 332 S.C. at 4, 498 S.E.2d at 864 (stating a court may not enlarge or extend a restriction beyond its clear meaning "even to accomplish what it may be thought the parties would have desired.").

Appellants also argue that Hutto's properties are subject to a negative reciprocal easement based on the original indenture deeds. Because Appellants did not raise this issue below, either in trial or in their Motion to Reconsider, nor is it addressed in any court order, the argument is unpreserved for appellate review. *See Smith v. Phillips*, 318 S.C. 453, 455, 458 S.E.2d 427, 429 (1995) ("[A]n appellate court cannot address an issue unless it was raised to, and ruled upon by, the trial court.").

II. Nuisance Activity

The Covenants provide that "[n]o noxious or offensive activity shall be carried upon any Lot, nor shall anything be done therein which may be or become an annoyance or nuisance, due to odors, noise, or any other reason, to the neighborhood." Appellants assert that the court erred by failing to declare all hunting to be a nuisance and/or a "noxious and offensive activity" as prohibited by the Covenants because it conflicts with the Community's residential nature. We disagree.

Nuisance is hurtful, inconveniencing, or damaging behavior, or "anything which essentially interferes with the enjoyment of life or property." *Click Props., LLC v. Thomas SC Props., LLC*, 445 S.C. 468, 484, 914 S.E.2d 496, 496 (Ct. App. 2025) (quoting *Neal v. Darby*, 282 S.C. 277, 285, 318 S.E.2d 18, 23 (Ct. App. 1984)). A landowner must demonstrate that the alleged nuisance "unreasonably interfered with [his or her] ownership or possession of the land." *Shaw v. Coleman*, 373 S.C. 485, 496, 645 S.E.2d 252, 258 (Ct. App. 2007) (quoting *Silvester v. Spring Valley Country Club*, 344 S.C. 280, 286, 543 S.E.2d 563, 566 (Ct. App. 2001)).

The notion that the alleged hunting on Hutto's property is a noxious or offensive activity that created a nuisance is not supported by the record. Although there was

conflicting testimony about the frequency and timing, the sound appeared largely limited to specific times of day during deer season. None of the neighbors testified to seeing anyone shoot guns, nor did anyone testify to any shooting taking place on or around the lake lots, across the lake, or toward neighbors' homes. *Cf. Shaw*, 373 S.C. at 496–97, 645 S.E.2d at 258 (finding a nuisance where a neighbor was "fir[ing] guns continuously, over roads, over property, and over individuals" and created "excessive noise by firing an air cannon on his property"). We do not find that by hunting on his 219 acres of privately owned land Hutto violated the restriction against noxious or offensive activity. Furthermore, we will not re-write the Covenants to categorize hunting as a noxious or offensive activity. *See Taylor*, 332 S.C. at 4, 498 S.E.2d at 864 (stating a court may not enlarge or extend a restriction beyond its clear meaning.).

For the above reasons, the decision of the circuit court is

AFFIRMED.

GEATHERS, HEWITT and CURTIS, JJ., concur.