Circuit Court for Anne Arundel County
Case No. C-02-CV-19-000583

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 574

September Term, 2020

JOE THE GRINDER, RIVA ROAD, LLC

V.

RIVA, LLC

Fader, C.J.,
Shaw Geter,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Fader, C.J.

Filed: July 20, 2021

This appeal arises out of a dispute between two neighboring property owners, Joe the Grinder, Riva Road, LLC ("Joe the Grinder") and Riva, LLC ("Riva"), concerning the scope of an easement granting Riva passage across Joe the Grinder's property (the "Easement"). The parties agree that the Easement provides access from Riva's property, across Joe the Grinder's property, *to* an adjacent traffic light, which we will refer to as "To the Light Access." The crux of the present dispute is whether the Easement also provides access the opposite way; i.e., *from* the same traffic light, across Joe the Grinder's property, to Riva's property, which we will refer to as "From the Light Access."

The Easement was created by a Declaration of Easement and Agreement entered in 2015 between Joe the Grinder and Riva's predecessor, Village, LLC, and recorded in the Anne Arundel County land records (the "2015 Declaration"). In granting partial summary judgment in favor of Riva, the Circuit Court for Anne Arundel County determined that the 2015 Declaration unambiguously granted both To the Light Access and From the Light Access. Because the court concluded that the language of the 2015 Declaration was unambiguous, it excluded extrinsic evidence that Joe the Grinder had offered in support of its position that the Easement was intended to provide only To the Light Access.

Following the summary judgment ruling, Riva filed an amended complaint in which it asserted that two exhibits attached to the 2015 Declaration—the legal metes and bounds description of the Easement (Exhibit A) and a plat map depicting the Easement (Exhibit B)—were inconsistent with the language of the 2015 Declaration as the court had interpreted it in its summary judgment ruling. Riva thus asked the court to order that new exhibits be substituted for the originals. Following a trial, which the court limited to the

issue of the location of the Easement, the court issued a declaratory judgment that, among other things, ordered that the Easement be re-recorded with new exhibits reflecting both To the Light Access and From the Light Access. Pursuant to the 2015 Declaration, the court also awarded attorneys' fees to Riva as the prevailing party.

We hold that the circuit court erred in concluding that the 2015 Declaration is unambiguous with respect to whether the Easement includes From the Light Access and, therefore, erred in awarding partial summary judgment in favor of Riva without considering extrinsic evidence. Because the other rulings Joe the Grinder challenges on appeal—the court's grant of Riva's motion in limine to limit the scope of the trial and the court's judgment following trial—were both premised on the correctness of the summary judgment ruling, we will reverse the challenged rulings and remand for further proceedings consistent with this opinion.

BACKGROUND

The Parties and the Properties

Joe the Grinder owns a lot fronting Riva Road in Annapolis, on which it operates a Dunkin' Donuts restaurant and drive-through. The lot, identified as Parcel 12 on Map 51A of the Tax Map of Anne Arundel County, contains two points of access to Riva Road. The eastern-most point of access, and the only point of entry, is located at a traffic signal at the intersection of Riva Road and the terminus of Admiral Cochrane Drive (the "Traffic Signal"). Vehicles entering Joe the Grinder's property at the Traffic Signal proceed in a counter-clockwise direction around the restaurant, first traveling north along the east side of the building, turning left around the north side of the building, returning to Riva Road

along the west side of the building, and ultimately exiting onto Riva Road at one of two points: (1) an exit permitting a right turn at the southwest edge of the property line; or (2) the Traffic Signal.

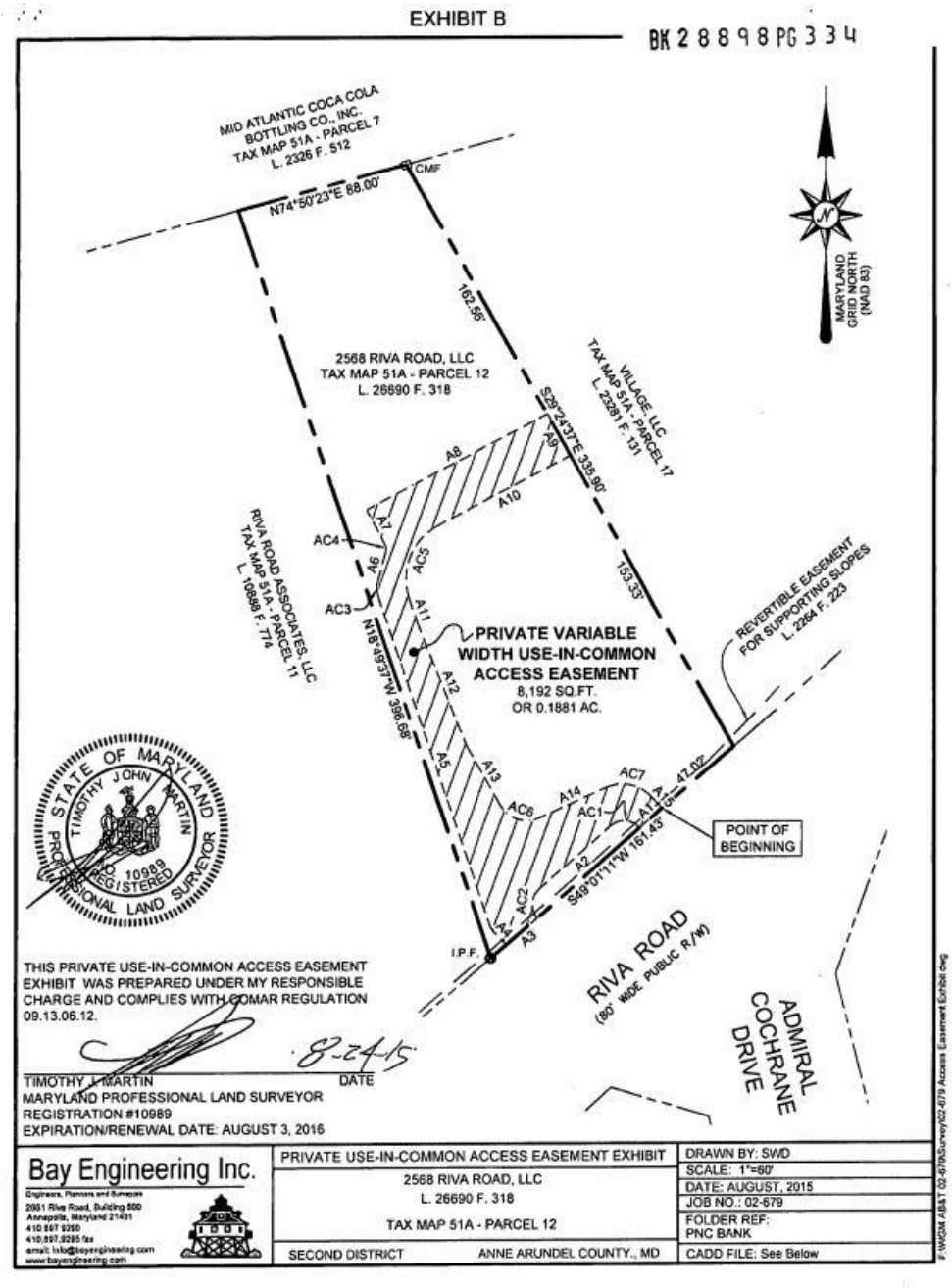
Riva owns a lot immediately to the west of Joe the Grinder's lot, also fronting Riva Road. Riva's lot, on which it operates a physical therapy business, is identified as Parcel 17 on Map 51A of the Tax Map. Riva purchased Parcel 17 from Village in 2017.

The Easement

The present dispute about the scope of the Easement centers on the 2015 Declaration. That declaration recites that in connection with Joe the Grinder's application for permits to redevelop Parcel 12, and in compliance with the Parole Urban Design Concept Plan, Anne Arundel County required Joe the Grinder "to establish a use in common access easement over and through Parcel 12 for vehicular traffic between Parcel 17 and the traffic signal[.]" In relevant part, the 2015 Declaration provides the following description of the Easement:

> 1. Subject to the terms and conditions of this Agreement, [Joe the Grinder] hereby creates and establishes for the benefit of Parcel 17, Village, its successors, assigns, agents, tenants, guests and invitees, a non-exclusive, perpetual easement as and for a right of way for vehicular ingress and egress (the "Easement") on, over, across and through that portion of Parcel 12 described on the attached Exhibit A and depicted on the attached Exhibit B (the "Easement Area").
>
> 2. Declarant reserves and maintains the right to relocate the Easement (the "Relocated Easement") and the Easement Area (the "Relocated Easement Area") to a different location on Parcel 12, provided that the Relocated Easement shall continue to provide a use in common right of way for vehicular ingress and egress for the benefit of Parcel 17 over Parcel 12 to the Traffic Signal. . . .

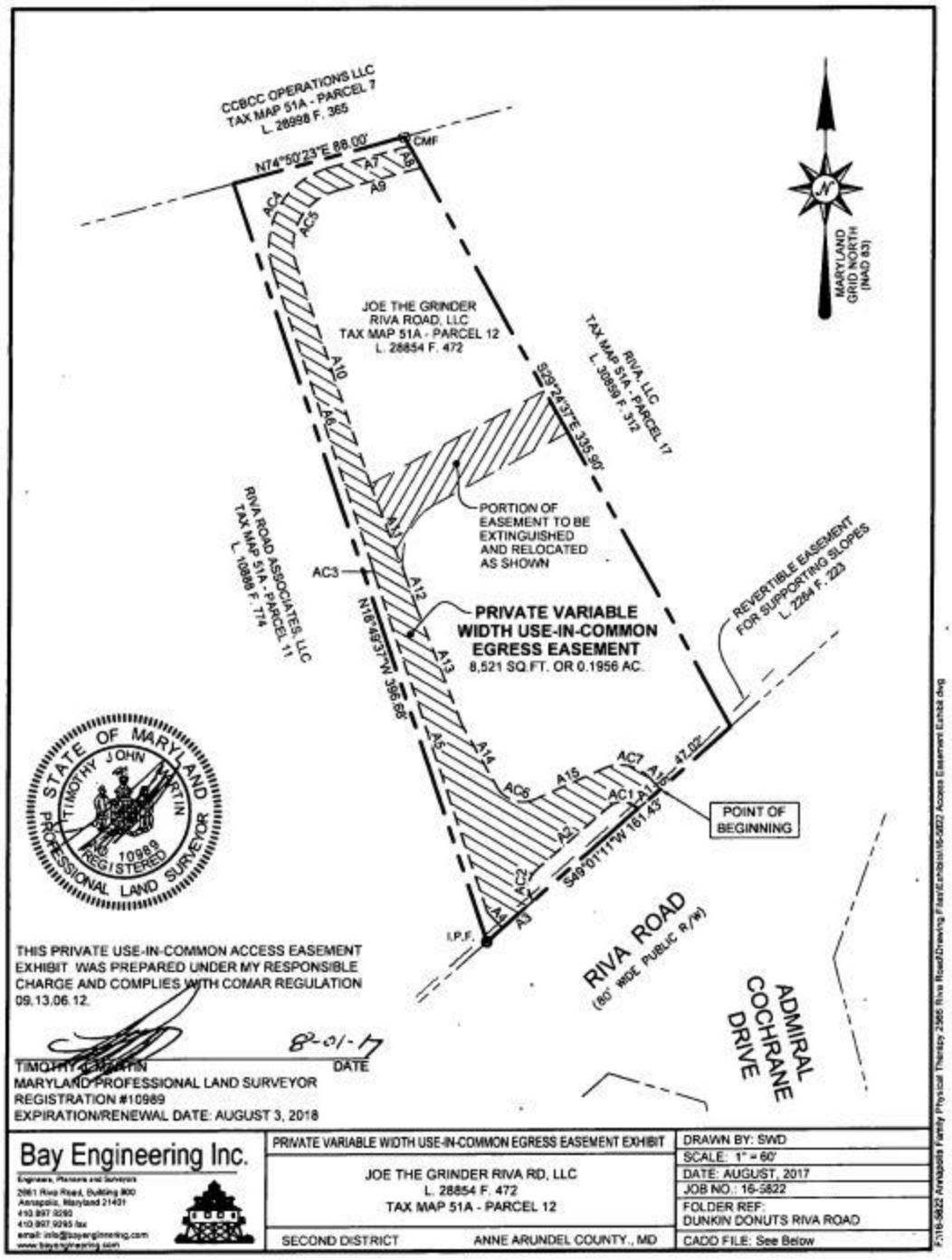
As referenced in paragraph 1, the 2015 Declaration contains two exhibits. Exhibit A provides the legal metes and bounds description of the Easement. Exhibit B, a plat map depicting the Easement, is reproduced below:



On the plat map, Parcel 12 is depicted at the center of the image, Parcel 17 is to the east, and the point of access at the Traffic Signal is marked by the text box stating "POINT OF BEGINNING."

In 2017, a dispute arose between Joe the Grinder and Riva concerning the scope of the Easement. Riva contended that the Easement provided Parcel 17 with both To the Light Access and From the Light Access across Parcel 12, with the Traffic Light supplying both an exit from Riva's property and an entrance to it across Joe the Grinder's property. By contrast, Joe the Grinder argued that the Easement provided only To the Light Access across Parcel 12, such that vehicles had to enter Riva's lot directly from Riva Road through a separate entrance located on that lot.

In September 2017, Joe the Grinder unilaterally executed and recorded in the land records for Anne Arundel County an Amended Declaration of Easement (the "2017 Declaration"). The new document purported to both clarify the original declaration and relocate the location of the access point between the properties. As particularly relevant here, the 2017 Declaration: (1) recited that "the [2015 Declaration] was intended to allow [Parcel 17] access to, over and across [Parcel 12] for egress purposes as shown on Exhibit B to the Easement"; and (2) purported to substitute new Exhibits A and B that (i) relocated the access point between the lots to the northern edge of the properties; and (ii) on Exhibit B, referred to the Easement as an "egress easement," rather than as an "access easement," as it was on the original Exhibit B. Exhibit B to the 2017 Declaration is reproduced below:



In February 2019, Riva filed a three-count complaint for declaratory judgment and breach of contract. Riva alleged that the 2015 Declaration provided Parcel 17 both From the Light Access and To the Light Access across Parcel 12, and claimed that by unilaterally filing the 2017 Declaration, Joe the Grinder had impermissibly attempted to restrict the

Easement to provide only To the Light Access.[1] Riva further alleged that because of heavy traffic in the area, requiring its patrons coming from the west to enter its property directly from Riva Road (at an access point on its own property) would present safety concerns that would be alleviated by providing From the Light Access across Parcel 12.

In Count 1 of the complaint, Riva sought a declaratory judgment that the 2015 Declaration was valid and enforceable, that Joe the Grinder was not permitted to "eliminate or alter the right of ingress to Parcel 17 across Parcel 12 from the Traffic Signal," that the 2017 Declaration was invalid and of no force and effect, and that Joe the Grinder was "required to configure Parcel 12 to allow ingress and egress to Parcel 17 from the Traffic Signal[.]" In Count 2, Riva sought damages for Joe the Grinder's breach of the 2015 Declaration. And in Count 3, Riva sought an award of attorneys' fees and costs pursuant to a prevailing party provision in the 2015 Declaration.[2]

With its complaint, Riva filed a motion for partial summary judgment as to Count 1, in which it argued that the 2015 Declaration unambiguously allowed both To the Light Access and From the Light Access across Parcel 12. Riva based its argument largely on the references in paragraphs 1 and 2 of the 2015 Declaration to "ingress and egress" access.

[1] In its complaint, Riva alleged that it was the successor to Village's rights under the 2015 Declaration. Joe the Grinder has not contested either Riva's status as Village's successor or Riva's right to enforce the 2015 Declaration.

[2] Paragraph 6 of the 2015 Declaration provides that "[t]his Agreement and the conditions hereof may be enforced by appropriate judicial action at law or in equity and the prevailing party in any such litigation shall be entitled to the reasonable costs and reasonable attorney's fees of any such action."

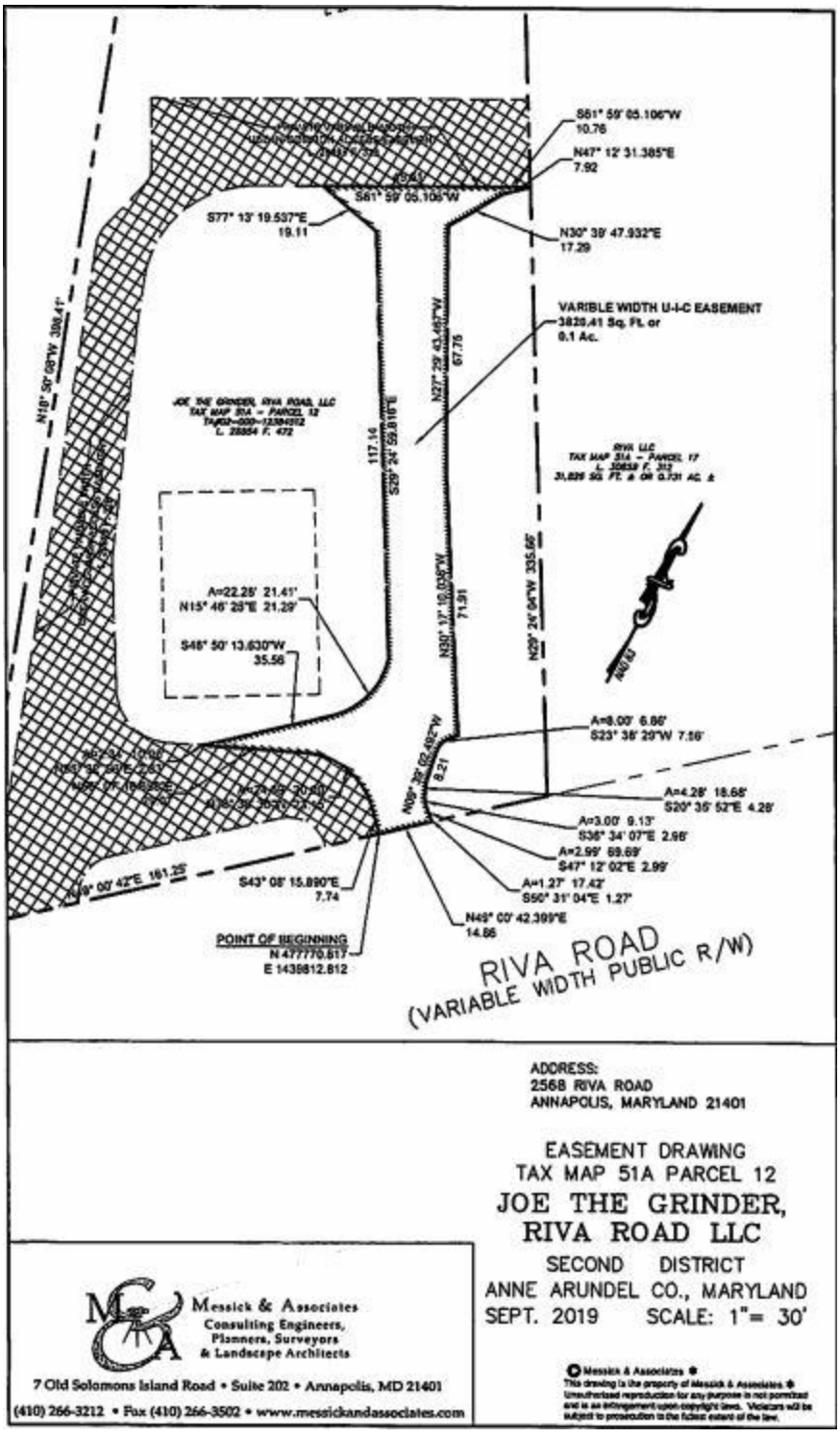
In opposing the motion for summary judgment, Joe the Grinder argued that the 2015 Declaration was ambiguous. Among other things, Joe the Grinder pointed out that paragraph 2 permitted it to relocate the Easement to a different location on its property provided that the Easement "shall continue to provide a use in common right of way for vehicular ingress and egress for the benefit of Parcel 17 over Parcel 12 to the Traffic Signal." Emphasizing the final phrase, "to the Traffic Signal," Joe the Grinder argued that the access was intended to be in only one direction, with "ingress" referring to ingress from Parcel 17 to Parcel 12, and "egress" referring to egress from Parcel 12 to the Traffic Signal. Joe the Grinder also argued that Riva's interpretation of the 2015 Declaration was inconsistent with the plat map attached as Exhibit B. According to Joe the Grinder, traffic entering Parcel 12 from the light and travelling north along the west side of Parcel 12—the only side on which the Easement was depicted on Exhibit B—"would have traffic colliding head-on in the cross-hatched Easement Area[.]"

Joe the Grinder further argued that extrinsic evidence established that all parties understood at the time they entered into the 2015 Declaration that it was intended to provide only To the Light Access. In support of that argument, Joe the Grinder attached affidavits to that effect from its owner and managing member, its project manager, its real estate agent, and Village's managing member, along with additional supporting documentation.[3]

[3] For example, Joe the Grinder provided a 2015 letter from Anne Arundel County's Office of Planning and Zoning stating that the County would "accept an access easement granting access to traffic crossing adjacent properties to access through [Parcel 12] to the traffic signal."

After a hearing, the court granted Riva's motion for partial summary judgment. The court concluded that because the 2015 Declaration provided both "ingress and egress [access] . . ., a reasonable person could not interpret this language in any way other than granting a two-way easement for ingress and egress to the traffic light." Because the court concluded that the 2015 Declaration was unambiguous, it declined to consider any of the extrinsic evidence Joe the Grinder had offered. The court also declared the 2017 Declaration "invalid and of no force or effect." The court's opinion did not mention the exhibits to the 2015 Declaration.

After obtaining partial summary judgment premised on the supposedly unambiguous nature of the 2015 Declaration, Riva filed an amended complaint premised on an alleged inconsistency between the text of the 2015 Declaration and its exhibits. Specifically, Riva now alleged that the exhibits were inconsistent with the language of the declaration because the exhibits "d[id] not provide[] platted ingress at the Traffic Signal at Riva Road[.]" In a new Count 1, Riva asked the court to enter a declaratory judgment to reform the 2015 Declaration by substituting new exhibits, which would conform to the 2015 Declaration as interpreted by the court's partial summary judgment ruling. The new plat map Riva asked the court to substitute for the original Exhibit B is reproduced below:



In the new map, the cross-hatched area represented the area of the Easement as depicted in the original Exhibit B, to which Riva proposed to add the new section from the Traffic Signal along the east side of the lot. Riva asserted that the addition was necessary

"to provide [Riva] with the appropriate ingress and egress at the Traffic Signal as required by the original Declaration[.]" In support of that claim, Riva attached to its complaint affidavits from Wayne Newton, a civil engineer, and Anne M. Randall, a transportation planner, both of whom averred that the exhibits to the 2015 Declaration did "not adequately provide for ingress to Parcel 17 across Parcel 12 from the Traffic Signal at Riva Road, as required by the [2015] Declaration."

Count 1 of the amended complaint replaced the original Count 1, on which the court had previously granted summary judgment.[4] Riva's amended complaint also abandoned its breach of contract count (previously Count 2), presumably based on having won declaratory relief that mooted its breach claim, but reasserted the original Count 3, in which it sought a contractual award of attorneys' fees.

In advance of trial, Riva filed a motion in limine in which it sought to limit evidence to the question of the "location and design of the ingress/egress easement"—the subject of Count 1 of the amended complaint—and thus to preclude Joe the Grinder from introducing extrinsic evidence concerning whether the Easement was intended to provide From the Light Access, which the court had already resolved. Citing the need to limit trial to the

[4] Riva's amended complaint did not include the original Count 1 from its first complaint. Notably, although the circuit court had granted partial summary judgment on the original Count 1, it had not entered a final judgment on that count. Nonetheless, Joe the Grinder did not raise in the circuit court and has not raised on appeal any argument concerning the legal effect of Riva's decision not to re-plead the original Count 1 in the amended complaint. As a result, we will not consider the implications of that decision here. *See* Md. Rule 8-131(a) ("Ordinarily, the appellate court will not decide any . . . issue [other than jurisdiction] unless it plainly appears by the record to have been raised in or decided by the trial court[.]").

allegations contained in the amended complaint, the court, acting through a different judge than the judge who had granted partial summary judgment, granted the motion in limine.

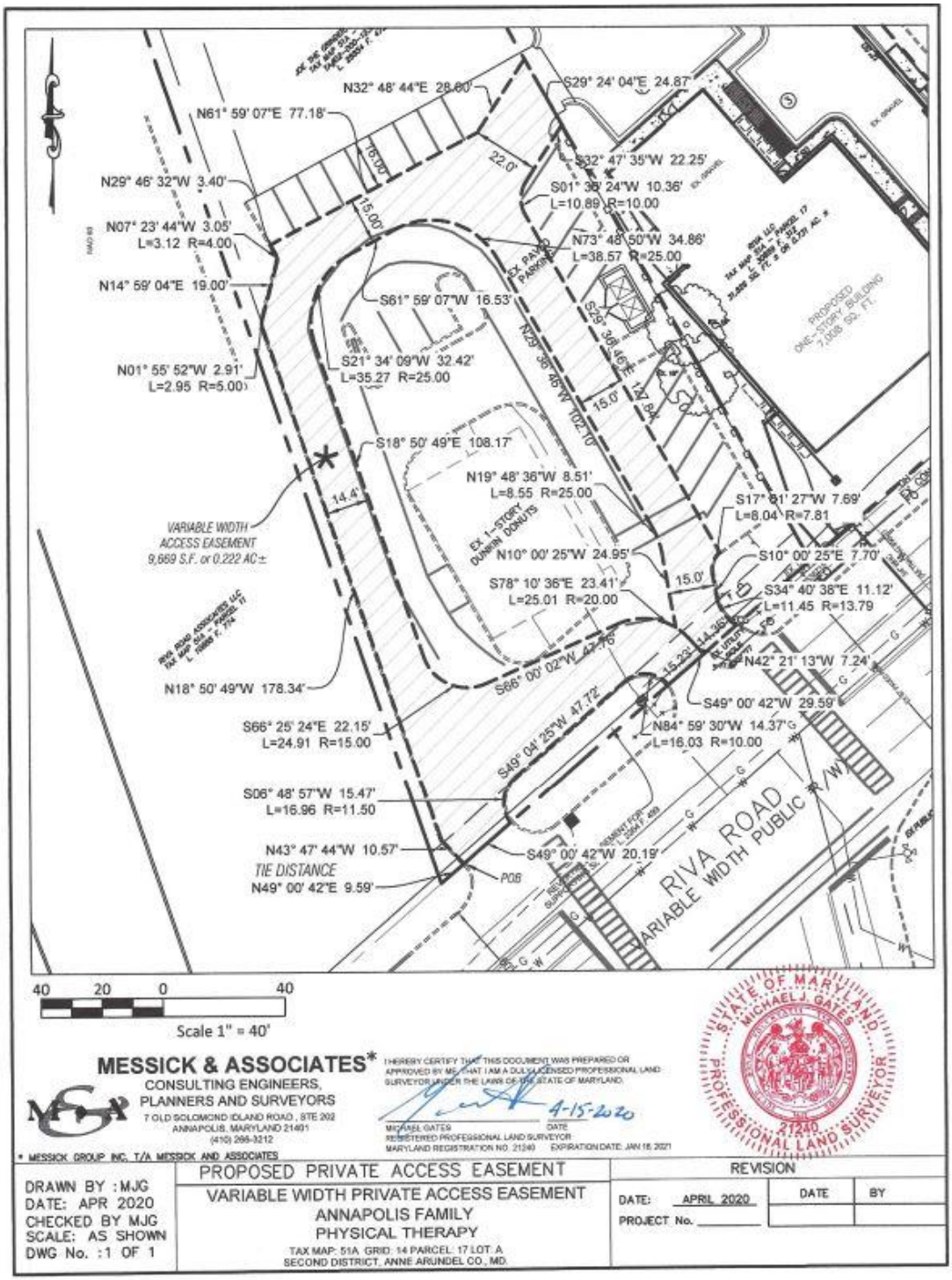
A bench trial on the amended complaint was held before a third judge in February 2020. Riva presented testimony from Mr. Newton, whom the court qualified as an expert in civil engineering and "land use matters[.]" Mr. Newton testified that the plat map that was Exhibit B to the 2015 Declaration did not conform with the written description in the 2015 Declaration because "[t]o access Parcel 17 via [the plat map], you would be driving in the opposite direction of traffic . . . and not be able to ingress to Parcel 17." Accordingly, he explained that "[t]he only option to provide ingress to Parcel 17 across Parcel 12 is to drive on the east side of the Dunkin Donuts building[.]" On cross-examination, Mr. Newton agreed that the original plat map did not "accomplish ingress and egress as written[.]"[5]

In light of the court's ruling on the motion in limine, Joe the Grinder did not present any evidence at trial. It did, however, make a proffer of the testimony it would have presented but for the court's ruling on that motion, which included testimony from the managing members of Joe the Grinder and Village, the project manager for Joe the Grinder, and the real estate agent for Joe the Grinder that the easement was meant to allow for only To the Light Access. Joe the Grinder also made a proffer of the testimony of two expert

[5] Joe the Grinder later requested that the court revisit its partial summary judgment ruling based on the arguments and evidence presented by Riva at trial. The court declined to do so.

witness who would testify that the way the Easement was platted was inconsistent with a two-way easement.

The court entered judgment in favor of Riva. Relying on the prior summary judgment ruling, the court declared that the 2015 Declaration "provides access to and from Riva's parcel to and from the Traffic Signal at Admiral Cochrane Drive and Riva Road." The court also declared that "[a]ll subsequent easements filed by Joe the Grinder . . . [we]re of no force or effect" and ordered that "[t]he 2015 Easement shall be re-recorded by Riva in the Land Records," with new exhibits A and B substituted for the originals. The new Exhibit B approved by the court, now depicting an easement expanded to the east side of the Dunkin' Donuts building to provide From the Light Access, is shown below:



The court declared that it had adopted the new plat map because "the access [provided by the plat map] must be 'to and from the traffic signal' to comply with the Summary

Judgment ruling[.]" The court also awarded attorneys' fees to Riva as the prevailing party. This timely appeal followed.

DISCUSSION

Joe the Grinder challenges the decisions of the circuit court: (1) entering partial summary judgment in favor of Riva on Count 1 of the original complaint; (2) granting Riva's motion in limine to limit evidence at trial to that relevant to Count 1 of the amended complaint; and (3) entering a final judgment, including declaratory relief and attorneys' fees, in favor of Riva. Joe the Grinder contends that the circuit court erred as a matter of law when it ruled that the Easement unambiguously granted both To the Light Access and From the Light Access, which in turn led to its errors in granting the motion in limine and ultimately entering judgment in favor of Riva on all claims. We agree that the court erred in concluding that the 2015 Declaration was unambiguous and consequently granting Riva's motion for partial summary judgment. Because the court's other rulings flowed from that initial determination, we will vacate the court's final judgment, reverse the orders granting partial summary judgment in favor of Riva and Riva's motion in limine, and remand for further proceedings not inconsistent with this opinion

Summary judgment is appropriate when the material facts in a case are not subject to genuine dispute and the moving party is entitled to judgment as a matter of law. Md. Rule 2-501(f). An appellate court reviews the grant of a motion for summary judgment without deference, "examining the record independently to determine whether any factual disputes exist when viewed in the light most favorable to the non-moving party and in deciding whether the moving party is entitled to judgment as a matter of law." *Steamfitters*

Local Union No. 602 v. Erie Ins. Exch., 469 Md. 704, 746 (2020) (quoting *Rowhouses, Inc. v. Smith*, 446 Md. 611, 630 (2016)). "Evidentiary matters, credibility issues, and material facts which are in dispute cannot properly be disposed of by summary judgment." *Taylor v. NationsBank, N.A.*, 365 Md. 166, 174 (2001). In determining whether a grant of summary judgment is legally correct, we ask "whether a fair minded jury could find for the plaintiff in light of the pleadings and the evidence presented, and there must be more than a scintilla of evidence in order to proceed to trial[.]" *Sierra Club v. Dominion Cove Point LNG, L.P.*, 216 Md. App. 322, 330 (2014) (quoting *Laing v. Volkswagen of Am., Inc.*, 180 Md. App. 136, 153 (2008)).

In construing an easement, we apply principles of contractual interpretation. *Miller v. Kirkpatrick*, 377 Md. 335, 351 (2003). "[T]he question of whether a contract is ambiguous ordinarily is determined by the court as a question of law." *Calomiris v. Woods*, 353 Md. 425, 434 (1999) (quoting *State Highway Admin. v. David A. Bramble, Inc.*, 351 Md. 226, 239 (1998)). Therefore, we review the question of ambiguity without deference to the circuit court. *Calomiris*, 353 Md. at 434.

"Maryland courts subscribe to the objective theory of contract interpretation." *Credible Behav. Health, Inc. v. Johnson*, 466 Md. 380, 393 (2019). "The primary rule for the construction of contracts generally," including "to the construction of a grant of an easement[,] is that a court should ascertain and give effect to the intention of the parties at the time the contract was made, if that be possible." *Miller*, 377 Md. at 351 (quoting *Buckler v. Davis Sand and Gravel Corp.*, 221 Md. 532, 538 (1960)). In construing that intent, our primary tool is the language of the instrument itself. *See Md. Agric. Land Pres.*

Found. v. Claggett, 412 Md. 45, 62-63 (2009). "Where the instrument includes clear and unambiguous language of the parties' intent, we will not sail into less charted waters to interpret 'what the parties thought that the agreement meant or intended it to mean.'" *Long Green Valley Ass'n v. Bellevale Farms, Inc.*, 432 Md. 292, 314 (2013) (quoting *Garfink v. Cloisters at Charles, Inc.*, 392 Md. 374, 393 (2006)). Only when the language of a contract is ambiguous can parol evidence be used to shed light on the parties' intent. *Calomiris*, 353 Md. at 433. However, "the parol evidence rule would not bar a court from considering the context of [a] transaction or the custom of the trade in a determination of ambiguity." *Id* at 436.

A contract is ambiguous if, when read by a reasonable person, it is susceptible to more than one meaning. *Weichert Co. of Maryland v. Faust*, 419 Md. 306, 317 (2011). In considering whether a contract is ambiguous, "we look to 'the entire language of the agreement, not merely a portion thereof.'" *Id*. (quoting *Nova Rsch. v. Penske Truck Leasing Co.*, 405 Md. 435, 448 (2008)). As part of this process, we consider not only the language of the actual contract, but any exhibits referenced by or incorporated into the contract. *See Emerald Hills Homeowners' Ass'n v. Peters*, 446 Md. 155, 170 (2016) ("It is well-settled that reference to a plat in a deed incorporates that plat as part of the deed."); *see also Pinnacle Grp., LLC v. Kelly*, 235 Md. App. 436, 462 (2018) ("[W]here a writing refers to another document[,] that other document, or so much of it as is referred to, is to be interpreted as part of the writing." (quoting *Wells v. Chevy Chase Bank, F.S.B.*, 377 Md. 197, 229 (2003))). When a contract encompasses multiple documents, as is the case here, we do not read each document in isolation but construe the documents "together,

harmoniously, so that, to the extent possible, all of the provisions can be given effect." *Schneider Elec. Bldgs. Critical Sys., Inc. v. West. Surety Co.*, 454 Md. 698, 707 (2017) (quoting *Rourke v. Amchem Prods., Inc.*, 384 Md. 329, 354 (2004)).

One common marker of ambiguity is where the terms of the contract are facially inconsistent. 17A Am. Jur. 2d Contracts § 326; *see also John L. Mattingly Const. Co. v. Hartford Underwriters Ins.*, 415 Md. 313, 328 (2010) (stating that where waivers were "internally inconsistent," they were ambiguous). When terms in an instrument are conflicting, we may step outside the express language of the instrument and "view the language employed in light of all of the facts and circumstances of the transaction." *Watson v. Raley*, 250 Md. 266, 268-69 (1968); *see also Conrad/Dommel, LLC v. W. Dev. Co.*, 149 Md. App. 239, 265 (2003) ("[I]f from an attempt to [interpret a deed,] an irreconcilable conflict arises because of contradictions within the deed[,] other means must be employed to ascertain the correct interpretation to be placed upon it." (quoting *Gregg Neck Yacht Club, Inc. v. County Comm'rs of Kent County*, 137 Md. App. 732, 760 (2001))).

Here, the 2015 Declaration is ambiguous with respect to whether it provides for both To the Light Access and From the Light Access across Parcel 12 or only To the Light Access. On one hand, we agree with the circuit court that the statement in paragraph 1 of the 2015 Declaration that the easement established a right of access for Parcel 17 for "ingress and egress . . . on, over, across and through that portion of Parcel 12" is most naturally read to provide both To the Light Access and From the Light Access. *See Easement*, Black's Law Dictionary 645 (11th ed. 2019) (defining "ingress-and-egress easement" as "[t]he right to use land to enter and leave another's property"); *see also*

Lindsay v. Annapolis Roads Prop. Owners Ass'n, 431 Md. 274, 282, 302 (2013) (interpreting an easement granting "a right of ingress and egress to Carrollton Road over the above described property" to provide access to and from the road). To similar effect is the phrase "ingress and egress for the benefit of Parcel 17 over Parcel 12" in paragraph 2 of the 2015 Declaration.

On the other hand, however, the phrase "to the Traffic Signal" completes the just-quoted sentence from paragraph 2 of the 2015 Declaration and is suggestive of only To the Light Access. Even more starkly, Exhibits A and B to the 2015 Declaration describe and depict, respectively, an Easement that both parties and the court ultimately concluded did *not* provide two-way access. For purposes of determining whether the 2015 Declaration is ambiguous, those exhibits are within the four corners of the document because (1) they were both attached to the 2015 Declaration and (2) the scope of the Easement in paragraph 1 of the document is expressly delineated by reference to those exhibits. *See, e.g.*, *Emerald Hills Homeowners' Ass'n*, 446 Md. at 170 ("It is well-settled that reference to a plat in a deed incorporates that plat as part of the deed.").

In opposing summary judgment, Joe the Grinder argued that the depiction of the Easement on Exhibit B necessarily depicted only To the Light Access.[6] At that time, Riva argued that Exhibit B should be ignored. But after prevailing on partial summary judgment, Riva quickly changed its approach and made the inconsistency between the

[6] For purposes of our analysis, we will focus on the more readily discernable plat map attached as Exhibit B to the 2015 Declaration, rather than the legal metes and bounds description attached as Exhibit A.

"ingress and egress" language in paragraphs 1 and 2 of the 2015 Declaration and the depiction of the Easement on Exhibit B the center of its amended complaint. In the new complaint, and then through expert testimony, Riva took the position that Exhibit B to the 2015 Declaration was so far inconsistent with the interpretation of the 2015 Declaration that it had offered (and that the circuit court had accepted in granting summary judgment) as to require a new Exhibit B, which would significantly expand the footprint of the Easement by extending it from the Traffic Signal along the east side of Parcel 12. By largely granting Riva the relief it sought and ordering that the 2015 Declaration be re-recorded with new exhibits, the trial court necessarily agreed as well that the original Exhibit B was inconsistent with the "ingress and egress" language in paragraphs 1 and 2 of the 2015 Declaration.

We agree that Exhibit B to the 2015 Declaration reflects a one-way Easement providing Parcel 17 with only To the Light Access. The Easement, as depicted on that document, exists along only the west side of the property and provides a single drive aisle. For reasons reflected in the arguments of both parties—albeit at different stages of the litigation—the Easement depicted on the original Exhibit B cannot reasonably be construed as providing two-way access.[7]

[7] Riva also argues on appeal that the Easement must be interpreted to provide both To the Light Access and From the Light Access because Recital B of the 2015 Declaration establishes that Anne Arundel County required Joe the Grinder "to establish a use in common access easement over and through Parcel 12 for vehicular traffic between Parcel 17 and the traffic signal at the intersection[.]" Even if we were to accept Riva's contention that that recital adds weight to its interpretation of the 2015 Declaration, that does not erase the inconsistencies contained in paragraph 2 of the declaration or in the incorporated

Where we part company with Riva concerns the implications of that inconsistency. Where a document is internally inconsistent such that it can be interpreted at least two ways, it is ambiguous, and when ordinary tools of construction do not resolve the ambiguity, extrinsic evidence, where available, should be admitted to resolve the ambiguity. *See Conrad/Dommel*, 149 Md. App. at 265 (stating that "an irreconcilable conflict aris[ing] from contradictions within the deed" creates an ambiguity that must be resolved by "other means" (quoting *Gregg Neck Yacht Club*, 137 Md. App. at 760)); *see also Watson*, 250 Md. at 268-69. *Watson* is instructive. There, a deed described a parcel of land as consisting of "the same [land] conveyed to [an earlier purchaser]," which included several acres south of a fence. 250 Md. at 268. However, the parcel was also described in the same document as the "parcel . . . designated as Parcel 'B' on a map," and the section of land so designated on the associated map did not include the land south of the fence. *Id*. Based on that inconsistency, the Court of Appeals concluded that the trial court had been correct to consider evidence beyond the four corners of the deed. *Id.* at 269. Here, as in *Watson*, the "ingress and egress" language in paragraph 1 of the 2015 Declaration was inconsistent with the incorporated exhibits and, therefore, the 2015 Declaration was ambiguous.[8]

exhibits. Extrinsic evidence that the County actually mandated a two-way easement in 2015 would undoubtedly lend support to Riva's interpretation of the 2015 Declaration, but it does not render the entire document unambiguous or preclude Joe the Grinder from introducing extrinsic evidence to the contrary.

[8] At oral argument, counsel for Riva suggested that the language of the 2015 Declaration and its attached plat map were not literally irreconcilable but rather that

The circuit court therefore erred when it denied Joe the Grinder the opportunity to introduce extrinsic evidence to resolve the ambiguity. *See Sy-Lene of Washington, Inc. v. Starwood Urban Retail II, LLC*, 376 Md. 157, 167-68 (2003) ("If the contract is ambiguous, the court must consider any extrinsic evidence which sheds light on the intentions of the parties at the time of the execution of the contract." (quoting *County Comm'rs of Charles County v. St. Charles Assocs.*, 366 Md. 426, 445 (2001))). A court may not resolve an ambiguity by rewriting the parties' agreement to eliminate it. *See Young v. Anne Arundel County*, 146 Md. App. 526, 587 (2002).

The motions court's ruling on the motion in limine and the trial court's entry of judgment in favor of Riva flowed directly from the erroneous entry of partial summary judgment.[9] As a result, we will vacate the court's final judgment, reverse the orders

effectuating both would merely cause a "safety concern," which the court remedied with the new plat map. That contention, however, is inconsistent with the arguments and evidence Riva presented to the circuit court, including its contention that the original plat map "does not work to provide what the written Declaration of Easement . . . requires [Joe the Grinder] to do," and Riva's expert's testimony that "[t]he only option to provide ingress to Parcel 17 across Parcel 12 is to drive on the east side of the Dunkin Donuts building[.]" In any event, whether the inconsistency created an impossibility or an unfeasibility, the tension within the 2015 Declaration established at least that the document was "susceptible of more than one meaning." *Weichert Co.*, 419 Md. at 317 (quoting *Nova Rsch.*, 405 Md. at 448).

[9] The grant of partial summary judgment by the judge who ruled on it, like most other interlocutory orders, was subject to revision by the trial judge when Joe the Grinder asked that judge to reconsider the prior ruling based on Riva's change in position and the evidence presented at trial. "As a general principle, one judge of a trial court ruling on a matter is not bound by the prior ruling in the same case by another judge of the court; the second judge, in [the judge's] discretion, may ordinarily consider the matter de novo." *State v. Frazier*, 298 Md. 422, 449 (1984).

granting partial summary judgment in favor of Riva and Riva's motion in limine, and remand for further proceedings not inconsistent with this opinion.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY VACATED, AWARD OF PARTIAL SUMMARY JUDGMENT, AND GRANT OF MOTION IN LIMINE REVERSED. CASE REMANDED FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY THE APPELLEE.