

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
FORM 8-K
CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of report (date of earliest event reported): **July 21, 2020**

WHEELER REAL ESTATE INVESTMENT TRUST, INC.
(Exact name of registrant as specified in its charter)

Maryland	001-35713	45-2681082
(State or other jurisdiction of incorporation or organization)	(Commission File Number)	(IRS employer identification number)
2529 Virginia Beach Blvd., Suite 200 Virginia Beach, VA		23452
(Address of principal executive offices)		(Zip code)

Registrant's telephone number, including area code: **(757) 627-9088**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.01 par value per share	WHLR	Nasdaq Capital Market
Series B Convertible Preferred Stock	WHLRP	Nasdaq Capital Market
Series D Cumulative Convertible Preferred Stock	WHLRD	Nasdaq Capital Market

Item 1.01. Entry into a Material Definitive Agreement.

On July 21, 2020, Wheeler REIT, L.P., a Virginia limited partnership (the "Operating Partnership"), of which Wheeler Real Estate Investment Trust, Inc., a Maryland corporation (the "Company"), is the sole general partner, entered into the Third Amendment (the "Third Amendment") to the Amended and Restated Credit Agreement, dated December 21, 2017 (the "Loan Agreement") with KeyBank National Association ("KeyBank").

The material changes to the Loan Agreement are as follows:

- The monthly principal amortization payment of \$350,000 required under the Loan Agreement shall continue to be paid on the first business day of each month; however, the additional principal prepayments required by Section 1d of the Second Amendment to the Loan Agreement shall no longer be required as the full principal amount of the outstanding loans shall be repaid on or before the maturity date.
- KeyBank agreed to release its lien on all equity interests in WHLR Forrest Gallery, LLC and WHLR Franklin Village, LLC.
- The revolving credit maturity date shall be December 31, 2020.
- At all times until the revolving credit maturity date of December 31, 2020, the Operating Partnership shall not be permitted to make directly or indirectly any distributions in cash, other than distributions of such amounts as are necessary for the Operating Partnership to maintain its status as a real estate investment trust.
- The minimum consolidated tangible net worth of the Operating Partnership and its respective subsidiaries shall not be less than \$199,984,257.
- Unrestricted cash and cash equivalents of the Operating Partnership must equal at least \$1,500,000.
- Sections 9.1, 9.2, 9.3 and 9.6 of the Loan Agreement is deleted in its entirety and replaced by the phrase "[Intentionally Omitted]";

The foregoing description of the Third Amendment is qualified in its entirety by reference to the full text of the Third Amendment, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K (the "Current Report"), and is incorporated by reference herein.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement of a Registrant.

The information included in Item 1.01 of this Current Report is incorporated by reference into this Item 2.03.

Item 9.01(d) Financial Statements and Exhibits.

[10.1](#) [Third Amendment to Amended and Restated Credit Agreement.](#)

EXHIBIT INDEX

<u>Number</u>	<u>Description of Exhibit</u>
10.1	Third Amendment to Amended and Restated Credit Agreement.

SIGNATURE

Pursuant to the requirements of the Securities and Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

WHEELER REAL ESTATE INVESTMENT TRUST, INC.

By: /s/ Daniel Khoshaba
Name: Daniel Khoshaba
Title: Chief Executive Officer

Dated: July 24, 2020

THIRD AMENDMENT TO AMENDED AND RESTATED CREDIT AGREEMENT

THIS THIRD AMENDMENT TO AMENDED AND RESTATED CREDIT AGREEMENT (“Agreement”) is made as of July 21, 2020, by and among WHEELER REIT, L.P., a Virginia limited partnership, (the “Borrower”), the Guarantors, KeyBank National Association, a national banking association (“KeyBank”), as administrative agent for the lenders (“Agent”), and the lenders from time to time party thereto (“Lenders”).

RECITALS

A. The Borrower, the Guarantors, the Agent and the Lenders have entered into that certain Amended and Restated Credit Agreement (as same has been amended or modified from time to time, the “Credit Agreement”) dated as of December 21, 2017, as amended on April 25, 2019 pursuant to a certain First Amendment to Amended and Restated Credit Agreement (the “First Amendment”) and as further amended effective December 21, 2019 pursuant to a certain Second Amendment to Amended and Restated Credit Agreement (the “Second Amendment”); capitalized terms used but not defined in this Agreement shall have the meanings defined for those terms in the Credit Agreement.

B. The Borrower and the Guarantors have requested that the Lenders agree to modify and/or waive certain provisions of the Credit Agreement, and the Agent and the Lenders have agreed to do so, provided Borrower, the Guarantors, Agent and the Lenders agree to amend the Credit Agreement as set forth herein.

NOW, THEREFORE, Borrower, the Guarantors, Agent and the Lenders agree as follows:

AGREEMENT

1. **General Amendments**: Notwithstanding any term or condition of the Credit Agreement, the First Amendment and/or the Second Amendment, the Borrower, the Guarantors, the Agent and the Lenders hereby agree as follows:

a. Except as expressly modified, amended or restated herein, each of the Credit Agreement, the First Amendment and the Second Amendment, shall remain in full force and effect.

b. The monthly principal amortization payment of \$350,000 required under the Credit Agreement (as amended by Section 1b of the Second Amendment) shall continue to be paid on the first Business Day of each month until the Loans are repaid in full, however, the additional curtailment principal prepayments required by Section 1d of the Second Amendment shall not be required to be paid by Borrower to Lenders, it being acknowledged and agreed that the full principal amount of the Loans shall be repaid on or before the Revolving Credit Maturity Date (as such term is modified hereby).

c. Without limitation of anything set forth in the Credit Agreement, the First Amendment and/or the Second Amendment, the Borrower shall pay to the Agent, to be applied in reduction of the outstanding Loan Exposure, the net proceeds of all capital events by the REIT, the Borrower or any of their Subsidiaries including, without limitation, all asset sales, refinancings and financings (secured, unsecured or otherwise), recapitalizations, equity issuances and other similar capital transactions (in each instance to the extent permitted under the Credit Agreement) consummated by the REIT, the Borrower or any Subsidiary thereof, with such which net proceeds being defined as the gross proceeds of such transaction less payment of all usual and customary closing costs incurred in closing such transactions and the repayment of any Indebtedness (if any) securing the subject asset(s) and, as to recapitalizations and equity issuances, after redemption or retirement of any Equity Interests being simultaneously redeemed or retired All such payments shall be due within one (1) business day of receipt of such proceeds by the REIT, the Borrower or such Subsidiary.

d. Notwithstanding any provision of the Credit Agreement, including, without limitation, Section 5.4 thereof, any release of any Collateral Properties under the Credit Agreement shall be subject to the approval of, and satisfaction of such terms and conditions imposed by, the Agent in its sole discretion; notwithstanding the foregoing, concurrently with the execution and delivery hereof and the completion of all conditions precedent set forth herein, the Agent agrees to release all Equity Interests in WHLR Forrest Gallery, LLC and WHLR Franklin Village, LLC from the lien of the Pledge Agreement, dated January 24, 2020 by and between WHEELER REIT, L.P., a Virginia limited partnership, et al, and Lenders, and Lenders shall take all reasonable actions to release all Equity Interest in WHLR Forrest Gallery, LLC and WHLR Franklin Village, LLC within thirty (30) days of the effective date of this Agreement.

2. Amendment to Credit Agreement. The Credit Agreement is hereby further specifically amended as follows:

a. The definition of Revolving Credit Maturity is hereby amended and restated in its entirety as follows:

Revolving Credit Maturity Date. December 31, 2020, or such earlier date on which the Revolving Credit Loans shall become due and payable pursuant to the terms hereof.

b. §8.3 of the Credit Agreement is hereby deleted in its entirety and shall be replaced by the phrase “[Intentionally Omitted.]”

c. §8.7 of the Credit Agreement is hereby amended and restated in its entirety as follows:

§8.7 Distributions. At all times until the Revolving Credit Maturity Date, no Loan Party shall permit the REIT to make directly or indirectly any Distributions in cash,

other than Distributions of such amounts as are necessary for the REIT to maintain its status as a real estate investment trust.

d. §9.4 of the Credit Agreement is hereby amended and restated in its entirety as follows:

§9.4 Minimum Consolidated Tangible Net Worth. The Consolidated Tangible Net Worth of the REIT and its respective Subsidiaries shall not be less than \$199,984,257.

e. §9.5 of the Credit Agreement is hereby amended and restated in its entirety as follows:

§9.5 Liquidity. The unrestricted cash and Cash Equivalents of the REIT must equal at least One Million Five Hundred Thousand Dollars (\$1,500,000) at all times hereafter.

f. §§9.1, 9.2, 9.3 and 9.6 of the Credit Agreement are hereby deleted in their entirety and each shall be replaced by the phrase “[Intentionally Omitted.]”.

3. Representations and Warranties. Borrower and Guarantors represent and warrant to Agent that, as of the Effective Date (as defined below), except as disclosed in writing by Borrower to Agent on or prior to the date hereof and approved by the Agent in writing (which disclosures shall be deemed to amend the Schedules and other disclosures delivered as contemplated in the Credit Agreement), the representations and warranties contained in the Credit Agreement and the other Loan Documents are true and correct in all material respects, except where any such representation and warranty is limited to a specific date prior to the Effective Date or where the failure to be true and correct in all material respects would not have a Material Adverse Effect. As of the Effective Date and after giving effect to this Agreement, no Default or Event of Default is in existence.

4. Conditions Precedent. This Agreement shall not be effective until each of the following conditions precedent has been satisfied to the satisfaction of, or waived in accordance with §27 of the Credit Agreement (with the date, if any on which such conditions have been satisfied or waived being referred to herein as, the “Effective Date”):

a. Agent shall have received:

1. a fully executed copy of this Agreement duly executed and delivered by Borrower, each other Credit Party, and the Lender;
 2. a Compliance Certificate dated as of the Effective Date demonstrating pro forma compliance with each of the covenants calculated therein;
 3. evidence satisfactory to the Agent that all action on the part of the Credit Parties necessary for the valid execution, delivery and performance by the Credit Parties of this Agreement and the other Loan Documents being
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delivered in connection herewith shall have been duly and effectively taken; and

4. a Beneficial Ownership Certification or controlling party certification in relation to the Borrower.

- b. No Default or Event of Default shall have occurred and be continuing as of the date of the Effective Date.

- c. The representations and warranties made by the Credit Parties in the Loan Documents shall be true and correct on the Effective Date (unless such representations are limited by their terms to a specific date in which case they shall be required to be true and correct only as of such specified date).

- d. Borrower shall have paid to Agent all reasonable costs and expenses of the Agent in connection with the loan arrangement and this Agreement, including, without limitation, reasonable legal fees and expenses incurred by Agent.

5. Further Assurances. Each of Borrower and each Guarantor agrees to execute and deliver such other instruments and documents and take such other action, as the Agent may reasonably request, in connection with the transactions contemplated by this Agreement.

6. GOVERNING LAW. THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACTUAL OBLIGATION UNDER, AND SHALL, PURSUANT TO NEW YORK GENERAL OBLIGATIONS LAW SECTION 5-1401, BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

7. Counterparts. This Agreement, which may be executed in multiple counterparts, constitutes the entire agreement of the parties regarding the matters contained herein and shall not be modified by any prior oral or written discussions. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging transmission (e.g. PDF by email) shall be effective as delivery of a manually executed counterpart of this Agreement. This Agreement is a Loan Document. Borrower and the Guarantors hereby ratify, confirm and reaffirm all of the terms and conditions of the Credit Agreement, and each of the other Loan Documents, and further acknowledge and agree that all of the terms and conditions of the Credit Agreement shall remain in full force and effect except as expressly provided in this Agreement. Except where the context clearly requires otherwise, all references to the Credit Agreement in any other Loan Document shall be to the Credit Agreement as amended by this Agreement.

8. No Waiver; Relationship of the Parties.

- a. Neither this Agreement nor Agent's or Lenders' agreements herein shall be deemed to be a waiver of any Default or Event of Default nor shall they establish or be deemed to establish

a course of dealing upon which the Borrower may rely on in the future. Each Credit Party agrees and acknowledges that, except as expressly set forth herein, neither the Agent nor any Lender has agreed, or is agreeing herein, to forbear from exercising its rights and remedies under the Loan Documents or applicable Law with respect to any Default or Event of Default whether presently existing or occurring hereafter (all of which rights and remedies are hereby expressly reserved by the Agent and the Lenders).

b. Nothing in this Agreement shall be construed to, nor is this Agreement intended to, alter, change or affect in any way the relationship among the Agent, the Lenders and the Credit Parties to one another, to anything other than a debtor-creditor relationship. This Agreement is not intended, nor shall it be construed, to create a partnership or joint venture relationship between or among any of the parties hereto. No Person other than a party hereto is intended to be a beneficiary hereof and no Person other than a party hereto shall be authorized to rely upon or enforce the contents of this Agreement.

9. Waiver/Release. Each Loan Party acknowledges and agrees that it has no claims, counterclaims, offsets, defenses or causes of action against the Agent or any Lender with respect to amounts outstanding and owing to the Agent and/or any of the Lenders under the Loan Documents. In consideration of, among other things, the Lenders' agreement to extend the Maturity Date and restructure certain payments with respect to the Loans as set forth in this Agreement, each Loan Party hereby WAIVES, releases and discharges to the fullest extent permitted by law, and hereby RELEASES and agrees to hold the Agent and the Lenders and their respective affiliates, shareholders and "controlling persons" (within the meaning of the federal securities laws), and their respective successors and assigns and each and all of the officers, directors, employees, consultants, agents, attorneys and other representatives of each of the foregoing (collectively, the "Releasees"), harmless from any claims, counterclaims, offsets, defenses and/or causes of action (collectively, the "Claims") that it may have against any Releasee based in whole or in part on any action or inaction of any of the Releasees with respect to the Loan Documents or the Obligations, whether such Claims are known or unknown, whether now existing or hereafter arising, and whether arising at law or in equity. In entering into this Agreement, each of the Loan Parties has consulted with, and been represented by, legal counsel and expressly disclaims any reliance on any representations, acts or omissions by any of the Releasees and hereby agree and acknowledge that the validity and effectiveness of the releases set forth above do not depend in any way on any such representations, acts and/or omissions or the accuracy, completeness or validity hereof. The provisions of this Section 9 shall survive the termination of the Loan Agreement, the other Loan Documents, and payment in full of the Obligations.

10. Release of Subsidiary Guarantors. Lenders acknowledge and agree that the following Subsidiary Guarantors are relieved and released from all obligations under any and all Loan Documents:

Folly Road – WHLR-Folly Road Crossing, LLC

Georgetown – WHLR-Georgetown, LLC
Ladson – WHLR-Ladson Crossing, LLC
Lake Greenwood – WHLR-Lake Greenwood Crossing, LLC
Litchfield Market / Shoppes at Litchfield (one entity) – WHLR-Litchfield Market Village, LLC
South Park – WHLR-Mullins South Park, LLC
Myrtle Park – WHLR-Shoppes at Myrtle Park, LLC
Ridgeland – WHLR-Ridgeland, LLC
St. Matthews – WHLR-St. Matthews, LLC
Laburnum – WHLR-Laburnum Square, LLC
Martinsville – WHLR-Village of Martinsville, LLC
New Market – WHLR-New Market Crossing, LLC

[Signature Page to Follow]

IN WITNESS WHEREOF, each party has executed this Agreement under seal as of the day and year first above written.

BORROWER:

WHEELER REIT, L.P., a Virginia limited partnership

By: WHEELER REAL ESTATE INVESTMENT TRUST, INC., a Maryland corporation, its general partner

By: /s/ Daniel Khoshaba
Name: Daniel Khoshaba
Title: C.E.O.

REIT:

WHEELER REAL ESTATE INVESTMENT TRUST, INC., a Maryland corporation

By: /s/ Daniel Khoshaba
Name: Daniel Khoshaba
Title: C.E.O.

SUBSIDIARY GUARANTORS:

WHLR-DARIEN, LLC, a Delaware limited liability company

By: Wheeler REIT, L.P., a Virginia limited partnership, its Sole Member

By: Wheeler Real Estate Investment Trust, Inc., a Maryland corporation, its general partner

By: /s/ Daniel Khoshaba
Name: Daniel Khoshaba
Title: C.E.O.

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

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WHLR-DEVINE STREET, LLC, a Delaware limited liability company

By: Wheeler REIT, L.P., a Virginia limited partnership, its Sole Member

By: Wheeler Real Estate Investment Trust, Inc., a Maryland corporation, its general partner

By: /s/ Daniel Khoshaba

Name: Daniel Khoshaba

Title: C.E.O.

WHLR-LAKE MURRAY, LLC, a Delaware limited liability company

By: Wheeler REIT, L.P., a Virginia limited partnership, its Sole Member

By: Wheeler Real Estate Investment Trust, Inc., a Maryland corporation, its general partner

By: /s/ Daniel Khoshaba

Name: Daniel Khoshaba

Title: C.E.O.

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

WHLR-MONCKS CORNER, LLC, a Delaware limited liability company

By: Wheeler REIT, L.P., a Virginia limited partnership, its Sole Member

By: Wheeler Real Estate Investment Trust, Inc., a Maryland corporation, its general partner

By: /s/ Daniel Khoshaba
Name: Daniel Khoshaba
Title: C.E.O.

WHLR-SOUTH LAKE POINTE, LLC, a Delaware limited liability company

By: Wheeler REIT, L.P., a Virginia limited partnership, its Sole Member

By: Wheeler Real Estate Investment Trust, Inc., a Maryland corporation, its general partner

By: /s/ Daniel Khoshaba
Name: Daniel Khoshaba
Title: C.E.O.

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

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KEYBANK NATIONAL ASSOCIATION, as Agent and Lender

By: /s/ Thomas Z. Schmitt

Name: Thomas Z. Schmitt

Title: Assistant Vice President

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