

Wheeler Real Estate Investment Trust, Inc.

Form S-3/A

March 07, 2014

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As filed with the Securities and Exchange Commission on March 7, 2014

Registration No. 333-193563

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Amendment No. 2 to
Form S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

WHEELER REAL ESTATE INVESTMENT TRUST, INC.

(Exact Name of Registrant as Specified in its Charter)

Maryland

(State or other jurisdiction of incorporation or organization)

45-2681082

(I.R.S. Employer Identification Number)

Riversedge North

2529 Virginia Beach Blvd., Suite 200

Virginia Beach, Virginia 23452

(757) 627-9088

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

CT Corporation System

111 Eighth Avenue

New York, New York 10011

(800) 624-0909

(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

With copies to:

Bradley A. Haneberg, Esq.

Kaufman & Canoles, P.C.

Two James Center

1021 East Cary Street, Suite 1400

Richmond, Virginia 23219

(804) 771-5700 telephone

(804) 771-5777 facsimile

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement.

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If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, as amended, or the Securities Act, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer Accelerated filer
 Non-accelerated filer (Do not check if a smaller reporting company) Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Each Class of	Amount To	Proposed Maximum	Proposed Maximum	Amount of
Securities to be Registered	Be	Offering	Aggregate Offering	Registration
Common Stock, par value \$.01 per share	Registered(1)	Price Per Share(2)	Price(2)	Fee(3)
	1,826,330	4.53	8,273,275	\$1,065.60

(1)

In accordance with Rule 416 promulgated under the Securities Act of 1933, this Registration Statement shall be deemed to cover any additional number of shares of common stock to be offered or issued from stock splits, stock dividends or similar transactions.

- (2) Estimated solely for purposes of the registration fee for this offering in accordance with Rule 457(c) of the Securities Act on the basis of the average of the high and low prices of the registrant's common stock on the Nasdaq Capital Market on January 23, 2014.
- (3) Calculated pursuant to Rule 457(c) based on the proposed maximum offering price. Paid previously.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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The information in this prospectus is not complete and may be changed. No person may sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED MARCH 7, 2014

PROSPECTUS

1,826,330 Shares

Common Stock

This Prospectus relates to the offer and sale from time to time (the Offering) by the persons listed herein (the Selling Stockholders), of up to 1,826,330 of our shares of common stock, \$0.01 par value per share the (Offered Stock). Our operating partnership, Wheeler REIT, L.P., issued 2,072,352 units of limited partnership interests (the Total Units), in five private transactions in partial or full consideration for the acquisition of eleven retail properties on November 16, 2012, December 18, 2012, December 21, 2012, October 21, 2103 and December 17, 2013. Each Total Unit is exchangeable for cash or one share of our common stock at our option. We may issue the 1,826,330 shares of Offered Stock to the Selling Stockholders, which hold 1,826,330 units (the Units) of the Total Units, if and to the extent that such Selling Stockholders exchange their Units for shares of our common stock. The registration of the resale of the Offered Stock does not necessarily mean that any of the shares of Offered Stock will be offered or sold by the Selling Stockholders. We will receive no proceeds of any sales of the Offered Stock, but we will incur expenses in connection with the offering.

Our common stock trades on the Nasdaq Capital Market under the symbol WHLR. On March 6, 2014, the last reported sale price of our common stock on the Nasdaq Capital Market was \$4.35 per share.

Investing in our common stock involves significant risks. See Risk Factors on page 3 of this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of our securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is _____, 2014

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Neither we nor any Selling Stockholder have authorized any dealer, salesperson or other person to give any information or to make any representation other than those contained or incorporated by reference in this prospectus. You must not rely upon any information or representation not contained or incorporated by reference in this prospectus. This prospectus does not constitute an offer to sell or the solicitation of an offer to buy any securities other than the registered securities to which it relates, nor does this prospectus constitute an offer to sell or the solicitation of an offer to buy securities in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. You should not assume that the information contained in this prospectus is accurate on any date subsequent to the date set forth on its front cover or that any information we have incorporated by reference is correct on any date subsequent to the date of the document incorporated by reference, even though this prospectus is delivered or securities are sold on a later date.

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CAUTIONARY STATEMENT

REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements, including discussion and analysis of our financial condition, anticipated capital expenditures required to complete projects, amounts of anticipated cash distributions to our shareholders in the future and other matters. These forward-looking statements are not historical facts but are the intent, belief or current expectations of our management based on its knowledge and understanding of our business and industry. Forward-looking statements are typically identified by the use of terms such as may, will, should, potential, predicts, anticipates, expects, intends, plans, believes, seeks, estimates, or the negative of variations of these words and similar expressions. These statements are not guarantees of future performance and are subject to risks, uncertainties and other factors, some of which are beyond our control, are difficult to predict and could cause actual results to differ materially from those expressed or forecasted in the forward-looking statements.

Forward-looking statements that were true at the time made may ultimately prove to be incorrect or false. You are cautioned to not place undue reliance on forward-looking statements, which reflect our management's view only as of the date of prospectus. We undertake no obligation to update or revise forward-looking statements to reflect changed assumptions, the occurrence of unanticipated events or changes to future operating results. Factors that could cause actual results to differ materially from any forward-looking statements made in this prospectus include:

the imposition of federal taxes if we fail to qualify as a real estate investment trust (REIT) in any taxable year or forego an opportunity to ensure REIT status;

uncertainties related to the national economy, the real estate industry in general and in our specific markets;

legislative or regulatory changes, including changes to laws governing REITs;

adverse economic or real estate developments in Virginia, Florida, Georgia, South Carolina, New Jersey, North Carolina, Oklahoma or Tennessee;

increases in interest rates and operating costs;

inability to obtain necessary outside financing;

litigation risks;

lease-up risks;

inability to obtain new tenants upon the expiration of existing leases;

inability to generate sufficient cash flows due to market conditions, competition, uninsured losses, changes in tax or other applicable laws; and

the need to fund tenant improvements or other capital expenditures out of operating cash flow.

These forward-looking statements should be read in light of these factors.

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WHEELER REAL ESTATE INVESTMENT TRUST, INC.

Unless the context otherwise requires or indicates, references to the company , we , our or us refers to Wheeler Real Estate Investment Trust, Inc., a Maryland corporation, together with its consolidated subsidiaries, including Wheeler REIT, L.P., a Virginia limited partnership, of which we are the sole general partner (the Operating Partnership).

We are a Maryland corporation formed with the principal objective of acquiring, financing, developing, leasing, owning and managing income producing assets such as strip centers, neighborhood centers, grocery-anchored centers, community centers and free-standing retail properties. Our strategy is to opportunistically acquire and reinvigorate well-located, potentially dominant retail properties in secondary and tertiary markets that generate attractive risk-adjusted returns. We target competitively protected properties in communities that have stable demographics and have historically exhibited favorable trends, such as strong population and income growth. We generally lease our properties to national and regional retailers that offer consumer goods and generate regular consumer traffic. We believe our tenants carry goods that are less impacted by fluctuations in the broader U.S. economy and consumers disposable income, generating more predictable property-level cash flows.

We currently own a portfolio consisting of twenty-three properties including sixteen retail shopping centers, six free-standing retail properties, and one office property, totaling 1,294,572 net rentable square feet of which approximately 94% were leased as of December 31, 2013.

We believe the current market environment creates a substantial number of favorable investment opportunities with attractive yields on investment and significant upside potential. We believe the markets we plan to pursue in the Mid-Atlantic, Southeast and Southwest have strong demographics and dynamic, diversified economies that will continue to generate jobs and future demand for commercial real estate. We anticipate that the depth and breadth of our real estate experience allows us to capitalize on revenue-enhancing opportunities in our portfolio and source and execute new acquisition and development opportunities in our markets, while maintaining stable cash flows throughout various business and economic cycles.

Jon S. Wheeler, our Chairman and Chief Executive Officer, has 31 years of experience in the real estate sector with particular experience in strategic financial and market analyses and assessments of new or existing properties to maximize returns. We have an integrated team of professionals with experience across all stages of the real estate investment cycle.

We were organized as a Maryland corporation on June 23, 2011 and elected to be taxed as a REIT beginning with our taxable year ending December 31, 2012. We conduct substantially all of our business through our Operating Partnership. We are structured as an umbrella partnership real estate investment trust (UPREIT), which means that we will own most of our properties through our Operating Partnership and its subsidiaries. As an UPREIT, we may be able to acquire properties on more attractive terms from sellers who can defer tax obligations by contributing properties to our Operating Partnership in exchange for Operating Partnership units, which will be redeemable for cash or exchangeable for shares of our common stock at our election.

WHLR Management, LLC (our Administrative Service Company), which is wholly owned by Mr. Wheeler, provides administrative services to our company. Pursuant to the terms of an administrative services agreement between our Administrative Service Company and us, our Administrative Service Company is responsible for identifying targeted real estate investments; handling the disposition of the real estate investments our board of directors has chosen to sell; and administering our day-to-day business operations, including but not limited to, leasing duties, property management, payroll and accounting functions. We also benefit from Mr. Wheeler s partially or wholly owned related

business and platform that specializes in retail real estate investment and management. Mr. Wheeler's organization includes (i) Wheeler Interests, LLC, an acquisition and asset management firm, (ii) Wheeler Real Estate, LLC, a real estate leasing management and administration firm, (iii) Wheeler Capital, LLC, a capital investment firm specializing in venture capital, financing, and small business loans, (iv) Site Applications, LLC, a full service facility company equipped to handle all levels of building maintenance and (v) TESR, LLC, a tenant coordination company specializing in tenant relations and community events. Our headquarters is located at Riversedge North, 2529 Virginia Beach Boulevard, Suite 200, Virginia Beach, Virginia 23452. Our telephone number is (757) 627-9088. Our website is located at www.WHLR.us. Our Internet website and the information contained therein or connected thereto do not constitute a part of this prospectus or any amendment or supplement hereto.

Our combined and consolidated financial statements include the accounts of the company and the Operating Partnership. We control the Operating Partnership through our sole general partnership interest and conduct substantially all our business through the Operating Partnership.

Table of Contents**RISK FACTORS**

Investing in our common stock involves significant risks. Before you decide whether to purchase any of our common stock, in addition to the other information set forth or incorporated by reference in this prospectus, you should carefully consider the risk factors set forth under the caption **Risk Factors** in our filings with the Securities and Exchange Commission (**SEC**), pursuant to the Securities Exchange Act of 1934, as amended (the **Exchange Act**), which are incorporated by reference herein.

USE OF PROCEEDS

The Selling Stockholders will receive all of the proceeds from the sale of shares of common stock under this prospectus. We will not receive any proceeds from these sales. The Selling Stockholders will pay any underwriting discounts and agent's commissions and expenses they incur for brokerage, accounting, tax or legal services or any other expenses they incur in disposing of the shares. We will bear all other costs, fees and expenses incurred in effecting the registration of the shares covered by this prospectus. These may include, without limitation, all registration and filing fees, Nasdaq Capital Market listing fees, fees and expenses of our counsel and accountants, and any blue sky fees and expenses.

SELLING STOCKHOLDERS

We may issue up to 1,826,330 shares of Offered Stock to the Selling Stockholders, if and to the extent that the Selling Stockholders exchange their Units and we issue the Selling Stockholders shares of common stock in connection therewith. The following table provides the names of the Selling Stockholders, the number of shares of common stock to be owned upon exchange of all Units held by the Selling Stockholders before the offering to which this prospectus relates, and the number of shares of Offered Stock offered by the Selling Stockholders. Since the Selling Stockholders may sell all, some or none of the Offered Stock, no estimate can be made of the number of shares of Offered Stock that will be sold by the Selling Stockholders or that will be owned by the Selling Stockholders upon completion of the offering. There is no assurance that the Selling Stockholders will sell any of the Offered Stock. The Offered Stock represents approximately 20% of the total shares of common stock outstanding as of March 7, 2014 and assuming the exchange of all outstanding Units held by the Selling Stockholders for shares of common stock. Ann McKinney is a director of the company and Robin Hanisch is the corporate secretary of the company. Jon Wheeler, our company's Chief Executive Officer and Chairman is the managing member of the Selling Shareholders listed in the footnotes below. None of the other Selling Stockholders held any position, office or had any other material relationship with our company within the past three years. Additionally, the Selling Stockholders identified in footnotes 5 and 29 are affiliates of broker-dealers, however, they purchased the shares being registered in the ordinary course of business and at the time of purchase, had no agreements or understandings, directly or indirectly, with any person to distribute the shares. No Selling Stockholder is a broker-dealer.

Name	Shares Owned	Shares Being Offered	Immediately Following	
	Immediately		the Offering (1)	
	Prior	for Resale Under this	Shares	Percentage (4)
	to the	Prospectus	Owned	
	Offering			
	(2)			
Alan R. Cornell Revocable Living Trust (3)	3,814	3,814	0	*

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Alan Wise	4,912	4,912	0	*
Albert Eugene Drake, Jr.	7,977	7,977	0	*
Amy Sue Nochumowitz	9,764	9,764	0	*
Ann L. McKinney	2,557	1,271	1,286	*
Anne B. Shumadine (5)	1,589	1,589	0	*
Argosy Real Estate Partners I, LP (6)	95,238	95,238	0	*
Avgeros Brothers, LLC (7)	13,018	13,018	0	*
Barry D. Crawford Living Trust (8)	6,356	6,356	0	*
Beazley Foundation, Inc. (9)	46,868	46,868	0	*
C. S. Thomas	13,018	13,018	0	*
Carolee C. Lewandowski	1,773	1,773	0	*
Carter Butler	636	636	0	*
Carytown Partners, LC (10)	8,136	8,136	0	*
Catamaran Capital, LLC (11)	22,095	22,095	0	*
Cecil C. Taylor, II	1,124	1,124	0	*
Charles E. Land	6,454	6,454	0	*
Clarence R. McCotter, III	13,209	13,209	0	*

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Name	Shares Owned		Immediately Following the Offering (1)	
	Immediately Prior to the Offering (2)	Shares Being Offered for Resale Under this Prospectus	Shares Owned	Percentage (4)
Club Forrest Surrey Plaza, LLC (12)	1,271	1,271	0	*
Commercial Construction Service, Inc. (13)	22,887	22,887	0	*
Corbin P. Miller	3,605	3,605	0	*
Craig Capital, LLC (14)	7,203	7,203	0	*
David Loewenstein, III	9,825	9,825	0	*
Debra Jo November Irrevocable Trust (15)	3,178	3,178	0	*
Denley H. Brown	5,622	5,622	0	*
Dennis T. Lewandowski	2,050	2,050	0	*
Donald Faulkner	12,412	12,412	0	*
Doumar-Pretty Lake, LLC (16)	31,312	31,312	0	*
Eden Capital, LLC (17)	3,972	3,972	0	*
Ellen Yanuck Rosenblum	5,622	5,622	0	*
Erik S. Cooper	9,647	9,647	0	*
G. Conoly Phillips	42,370	42,370	0	*
Georgina M. Klekota	589	589	0	*
Gooseneck Land & Timber, LLP (18)	636	636	0	*
Grand C. Corporation (19)	27,206	27,206	0	*
Gregory H. Law	10,815	10,815	0	*
Hanna J. Investments, LLC (20)	636	636	0	*
Harold Cooper	5,887	5,887	0	*
Hidden Valley Capital, LLC (21)	6,248	6,248	0	*
Howard Kaye	9,534	9,534	0	*
Howard Kaye Family Fund (22)	38,696	24,409	14,287	*
Hunters Trail Associates, LLC (23)	8,415	8,415	0	*
Jack H. Ragland	11,838	11,838	0	*
James P. Carreras	11,391	11,391	0	*
Jane E. Cornell Revocable Trust (24)	16,273	16,273	0	*
Jefferson S. Cooper	4,326	4,326	0	*
Jeffrey K. Francis	8,415	8,415	0	*
Jeffrey T. Talbert	1,081	1,081	0	*
Jerry Reed	2,355	2,355	0	*
John H. Fain	57,217	57,217	0	*
JPA Management, LLC (25)	3,464	3,464	0	*
Kathryn Y. Wenger	5,622	5,622	0	*
Kelly L. Law	101,618	87,174	14,444	*
Kimberly Paige Wheeler Irrevocable Trust (26)	15,617	15,617	0	*
Kimberly R. Wheeler	3,123	3,123	0	*
Leif William Christiansson Berner	5,622	5,622	0	*

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Lester Veltman	4,709	4,709	0	*
Linda M. Long	5,622	5,622	0	*
LPA Management, LLC (27)	13,922	13,922	0	*
Lumber River Management, LLC (28)	2,701	2,701	0	*
Marjorie H. Stephenson	5,622	5,622	0	*
Mark R. Warden (29)	5,657	5,657	0	*
McPhail Capital, LLC (30)	22,388	22,388	0	*
Michael Lewis	18,065	6,509	11,556	*
Milton G. & Ann L. McKinney	2,050	2,050	0	*
Morgan A. Carmichael	9,565	9,565	0	*
Multiple Holdings, LLC (31)	18,288	18,288	0	*
Neil S. Kessler	8,136	8,136	0	*
Owen Sidney Miller	3,605	3,605	0	*
P. Bradley Nott, Jr	8,136	8,136	0	*
Peggy Sue Hill	450	450	0	*
Perimeter Management, LLC (32)	5,502	5,502	0	*
Philip W. Evans	8,136	8,136	0	*
R. Slater Watkins	636	636	0	*
RB Capital, LLC (33)	636	636	0	*
Rebecca A. Schiefer	337	337	0	*

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RES Family Limited Partnership (34)	9,051	9,051	0	*
Richard D. Kaufmann	4,912	4,912	0	*
Richard Frippe Frost	12,204	12,204	0	*
Richard O. Wheeler	16,087	16,087	0	*
Richard S. Bray	10,534	10,534	0	*
ROA Management, LLC (35)	12,745	12,745	0	*
Robert J. Gounaud	22,388	22,388	0	*
Robert Wenger	68,614	68,614	0	*
Robin A. Hanisch	27,050	2,050	25,000	*
Roger Frost	12,204	12,204	0	*