

Wheeler Real Estate Investment Trust, Inc.
Form SC TO-I/A
July 14, 2015

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Amendment No. 2

to

SCHEDULE TO

TENDER OFFER STATEMENT UNDER SECTION 14(d)(1) or 13(e)(1)

OF THE SECURITIES EXCHANGE ACT OF 1934

WHEELER REAL ESTATE

INVESTMENT TRUST, INC.

(Name of Subject Company (Issuer) and Filing Person (as Offeror))

| Title of Class of Securities | CUSIP Number of Class of Securities |
|---|--|
| Series A Preferred Stock, without par value per share | N/A |
| Series B Preferred Stock, without par value per share | 963025 309 |

Copy to

Bradley A. Haneberg, Esq.

Matthew B. Chmiel, Esq.

Haneberg, PLC

310 Granite Avenue

Richmond, Virginia 23226

(804) 814-2209

**(Name, Address, and Telephone Numbers of Person Authorized to Receive Notices
and Communications on Behalf of Filing Persons)**

- .. Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid:
Form or Registration No.:

Filing Party:
Date Filed:

- .. Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- .. third-party tender offer subject to Rule 14d-1.
- x issuer tender offer subject to Rule 13e-4.
- .. going-private transaction subject to Rule 13e-3.
- .. amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer: ..

If applicable, place an X in the box to designate the appropriate rule provision relied upon in conducting this transaction:

- .. Rule 13e-4(i) (Cross-Border Issuer Tender Offer)
- .. Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)

INTRODUCTION

This Amendment No. 2 to Schedule TO amends and supplements the Tender Offer Statement on Schedule TO filed with the Securities and Exchange Commission on June 15, 2015, and the first amendment thereto, filed on July 1, 2015, relating to an offer (the *Offer*) by Wheeler Real Estate Investment Trust, Inc., a corporation organized under the laws of the State of Maryland (the *Company*), to exchange newly issued shares of the Company's Common Stock for its outstanding shares of (i) Series A Preferred Stock, and (ii) Series B Preferred Stock, on the terms and subject to the conditions set forth in this document and in the Prospectus (incorporated by reference herein as Exhibit (a)(1)(A) (the *Prospectus*)) and the amended letter of transmittal (incorporated by reference herein as Exhibit (a)(1)(E) (the *Letter of Transmittal*)).

The information set forth in the Prospectus and the related Letter of Transmittal is incorporated herein by reference in response to all items required in this Tender Offer Statement, as more particularly described below.

Item 1. Summary Term Sheet.

The information set forth in the Prospectus in sections entitled *Questions and Answers About the Exchange Offer* and *Summary* is incorporated herein by reference.

Item 2. Subject Company Information.

(a) Name and Address.

The name of the subject company is Wheeler Real Estate Investment Trust, Inc., a corporation organized under the laws of the State of Maryland. The address of the Company's principal executive office is Riversedge North, 2529 Virginia Beach Boulevard, Virginia Beach, VA 23452. The Company's phone number is (757) 627-9088.

(b) Securities.

The information set forth in the Prospectus in the section entitled *Description of Capital Stock* is incorporated herein by reference.

(c) Trading Marketing and Price.

The Series A Preferred Stock has no established trading market.

The Series B Preferred Stock is listed on the Nasdaq Capital Market under the symbol *WHLRP*. The high and low Series B Preferred Stock sales prices per share during 2014 and 2015 are indicated below⁽¹⁾:

Price per share of Series B Preferred Stock:

| | Quarter Ended | | | | Full |
|--------------------------------|----------------------|----------------|-----------------|----------------|-------------|
| <u>Fiscal Year 2015</u> | Mar. 31 | June 30 | Sept. 30 | Dec. 31 | Year |
| | | | | | |

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| | | | | | |
|--------------------------------|----------|----------|----------------------|----------|----------|
| High | \$ 24.96 | \$ 25.45 | 24.40 ⁽²⁾ | N/A | N/A |
| Low | \$ 18.75 | \$ 23.02 | 23.45 ⁽²⁾ | N/A | N/A |
| <u>Fiscal Year 2014</u> | | | | | |
| High | N/A | \$ 27.43 | \$ 25.55 | \$ 23.85 | \$ 27.43 |
| Low | N/A | \$ 24.20 | \$ 23.20 | \$ 21.28 | \$ 21.28 |
| <u>Fiscal Year 2013</u> | | | | | |
| High | N/A | N/A | N/A | N/A | N/A |
| Low | N/A | N/A | N/A | N/A | N/A |

(1) There is no sales price per share history for the Series B Preferred Stock in 2013 because it was not issued until April 29, 2014.

(2) Updated through July 9, 2015.

The Common Stock is listed on the Nasdaq Capital Market under the symbol WHLR. The high and low sales prices per share during 2013, 2014 and 2015 are indicated below:

Price per share of common stock:

| | Quarter Ended | | | | Full Year |
|--------------------------------|---------------|---------|---------------------|---------|--------------|
| | Mar. 31 | June 30 | Sept. 30 | Dec. 31 | |
| <u>Fiscal Year 2015</u> | | | | | |
| High | \$ 4.14 | \$ 2.45 | 2.05 ⁽¹⁾ | N/A | N/A |
| Low | \$ 2.27 | \$ 2.00 | 1.93 ⁽¹⁾ | N/A | N/A |
| <u>Fiscal Year 2014</u> | | | | | |
| High | \$ 4.86 | \$ 5.08 | \$ 5.16 | \$ 4.67 | \$ 5.16 |
| Low | \$ 4.14 | \$ 4.35 | \$ 4.45 | \$ 3.94 | \$ 3.94 |
| <u>Fiscal Year 2013</u> | | | | | |
| High | \$ 5.66 | \$ 5.92 | \$ 5.27 | \$ 4.41 | \$ 5.92 |
| Low | \$ 5.47 | \$ 5.17 | \$ 4.00 | \$ 3.74 | \$ 3.74 |

(1) Updated through July 9, 2015.

The Company has made dividend payments, or will make the dividend payment to be paid on July 15, 2015, to holders of its Series A Preferred Stock in 2013, 2014 and 2015 as follows:

| Dividend Period | Record Date | Payment Date | Payment Amount Per Share |
|--------------------------------------|----------------|--------------|-----------------------------|
| June 8, 2013 - June 30, 2013 | 6/30/2013 | 7/15/2013 | \$ 5.00 |
| July 1, 2013 - August 26, 2013 | 8/27/13 | 10/15/2013 | \$ 13.94 ⁽¹⁾ |
| August 28, 2013 - September 30, 2013 | 9/30/13 | 10/15/13 | \$ 8.56 ⁽¹⁾ |
| October 1, 2013 - December 31, 2013 | 12/31/2013 | 1/15/2014 | \$ 22.50 |
| January 1, 2014 - March 31, 2014 | 3/31/2014 | 4/15/2014 | \$ 22.50 |
| April 1, 2014 - June 30, 2014 | 6/30/2014 | 7/15/2014 | \$ 22.50 |
| July 1, 2014 - September 30, 2014 | 9/30/2014 | 10/15/2014 | \$ 22.50 |
| October 1, 2014 - December 31, 2014 | 12/31/2014 | 1/15/2015 | \$ 22.50 |
| January 1, 2015 - March 31, 2015 | 3/31/2015 | 4/15/2015 | \$ 22.50 |
| April 1, 2015 - June 30, 2015 | 6/30/2015 | 7/15/2015 | \$ 22.50 |

(1) Dividend prorated through conversion date.

The Company has made dividend payments, or will make the dividend payment to be paid on July 15, 2015, to holders of its Series B Preferred Stock in 2014 and 2015 as follows:⁽¹⁾

| Dividend Period | Record Date | Payment Date | Payment Amount per Share or Unit |
|-----------------------------------|----------------|--------------|--|
| April 26, 2014 - June 30, 2014 | 6/30/2014 | 7/15/2014 | \$ 0.3875 |
| July 1, 2014 - September 30, 2014 | 9/30/2014 | 10/15/2014 | \$ 0.5625 |

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| | | | | | |
|-----------------|-------------------|------------|-----------|----|--------|
| October 1, 2014 | December 31, 2014 | 12/31/2014 | 1/15/2015 | \$ | 0.5625 |
| January 1, 2015 | March 31, 2015 | 3/31/2015 | 4/15/2015 | \$ | 0.5625 |
| April 1, 2015 | June 30, 2015 | 6/30/2015 | 7/15/2015 | \$ | 0.5625 |

- (1) There is no dividend history for the Series B Preferred Stock in 2013 because it was not issued until April 29, 2014.

The Company has made dividend payments, or will make the dividend payment to be paid on July 31, 2015, to holders of its Common Stock in 2013, 2014 and 2015 as follows:

| Dividend Period | Record Date | Payment Date | Payment Amount per Share |
|--------------------------------------|--------------------|---------------------|---------------------------------|
| November 19, 2012 December 31, 2012 | 1/1/2013 | 1/31/2013 | \$ 0.4900 |
| January 1, 2013 January 31, 2013 | 2/1/2013 | 2/28/2013 | \$ 0.0350 |
| February 1, 2013 February 28, 2013 | 3/1/2013 | 3/31/2013 | \$ 0.0350 |
| March 1, 2013 March 31, 2013 | 3/31/2013 | 4/30/2013 | \$ 0.0350 |
| April 1, 2013 April 30, 2013 | 4/30/2013 | 5/31/2013 | \$ 0.0350 |
| May 1, 2013 May 31, 2013 | 5/31/2013 | 6/30/2013 | \$ 0.0350 |
| June 1, 2013 June 30, 2013 | 6/30/2013 | 7/31/2013 | \$ 0.0350 |
| July 1, 2013 July 31, 2013 | 7/31/2013 | 8/31/2013 | \$ 0.0350 |
| August 1, 2013 August 31, 2013 | 8/31/2013 | 9/30/2013 | \$ 0.0350 |
| September 1, 2013 September 30, 2013 | 9/30/2013 | 10/31/2013 | \$ 0.0350 |
| October 1, 2013 October 31, 2013 | 10/31/2013 | 11/30/2013 | \$ 0.0350 |
| November 1, 2013 November 30, 2013 | 11/30/2013 | 12/31/2013 | \$ 0.0350 |
| December 1, 2013 December 31, 2013 | 12/31/2013 | 1/31/2014 | \$ 0.0350 |
| January 1, 2014 January 31, 2014 | 1/31/2014 | 2/28/2014 | \$ 0.0350 |
| February 1, 2014 February 28, 2014 | 3/1/2014 | 3/31/2014 | \$ 0.0350 |
| March 1, 2014 March 31, 2014 | 3/31/2014 | 4/30/2014 | \$ 0.0350 |
| April 1, 2014 April 30, 2014 | 4/30/2014 | 5/31/2014 | \$ 0.0350 |
| May 1, 2014 May 31, 2014 | 5/31/2014 | 6/30/2014 | \$ 0.0350 |
| June 1, 2014 June 30, 2014 | 6/30/2014 | 7/31/2014 | \$ 0.0350 |
| July 1, 2014 July 31, 2014 | 7/31/2014 | 8/31/2014 | \$ 0.0350 |
| August 1, 2014 August 31, 2014 | 8/31/2014 | 9/30/2014 | \$ 0.0350 |
| September 1, 2014 September 30, 2014 | 9/30/2014 | 10/31/2014 | \$ 0.0350 |
| October 1, 2014 October 31, 2014 | 10/31/2014 | 11/30/2014 | \$ 0.0350 |
| November 1, 2014 November 30, 2014 | 11/30/2014 | 12/31/2014 | \$ 0.0350 |
| December 1, 2014 December 31, 2014 | 12/31/2014 | 1/31/2015 | \$ 0.0350 |
| January 1, 2015 January 31, 2015 | 1/31/2015 | 2/28/2015 | \$ 0.0350 |
| February 1, 2015 February 28, 2015 | 3/1/2015 | 3/31/2015 | \$ 0.0350 |
| March 1, 2015 March 31, 2015 | 3/31/2015 | 4/30/2015 | \$ 0.0175 |
| April 1, 2015 April 30, 2015 | 4/30/2015 | 5/31/2015 | \$ 0.0175 |
| May 1, 2015 May 31, 2015 | 5/31/2015 | 6/30/2015 | \$ 0.0175 |
| June 1, 2015 June 30, 2015 | 6/30/2015 | 7/31/2015 | \$ 0.0175 |

Item 3. Identity and Background of Filing Person.

(a) Name and Address.

The name of the filing person is Wheeler Real Estate Investment Trust, Inc., a corporation organized under the laws of the State of Maryland. The information set forth in Item 2(a) above is incorporated herein by reference. The information set forth in the Prospectus in section entitled Business is incorporated herein by reference. The address for all of the Company's executive officers and directors is c/o Wheeler Real Estate Investment Trust, Inc., Riversedge

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North, 2529 Virginia Beach Boulevard, Virginia Beach, VA 23452.

Pursuant to Instruction C of Schedule TO, the following persons are the executive officers and directors of the Company.

| Name | Position Held by Individual |
|----------------------|--|
| Jon S. Wheeler | Chief Executive Officer & Chairman of the Board |
| Steven M. Belote | Chief Financial Officer |
| Robin Hanisch | Corporate Secretary and Director of Investor Relations |
| David Kelly | Director of Acquisitions and Director |
| Jeffrey Parker | Director of Leasing |
| Victoria Paul | Senior Vice President of Operations |
| Christopher J. Ettel | Independent Director |
| William W. King | Independent Director |
| Carl B. McGowan, Jr. | Independent Director |
| Ann L. McKinney | Director |
| Jeffrey Zwerdling | Independent Director |
| Kurt R. Harrington | Independent Director |

The address and telephone number of each director and executive officer is c/o Wheeler Real Estate Investment Trust, Inc., Riversedge North, 2529 Virginia Beach Blvd., Virginia Beach, Virginia 23452.

Item 4. Terms of the Transaction.

(a) Material Terms.

The information set forth in the following sections of the Prospectus is incorporated herein by reference:

Description of Our Capital Stock;

Questions and Answers About the Exchange Offer;

Summary;

The Exchange Offer; and

Material U.S. Federal Income Tax Considerations.

(b) Purchases.

One of the Company's directors, Jeffrey Zwerdling, owns an aggregate of 14,000 shares of Series B Preferred Stock. Mr. Zwerdling will be eligible to tender his shares of Series B Preferred Stock on the same terms and conditions as all other holders of Series B Preferred Stock.

Item 5. Past Contracts, Transactions, Negotiations and Agreements.

(a) *Agreements Involving the Subject Company's Securities.*

The information set forth in the sections entitled "Certain Relationships, Related Transactions and Director Independence" of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2014 (2014 10-K) is incorporated herein by reference.

Item 6. Purposes of the Transaction and Plans or Proposals.

(a) *Purposes.*

The information set forth in the Prospectus in the sections entitled "Questions and Answers About the Exchange Offer" and "Why are we making the Exchange Offer" and "The Exchange Offer Purpose and Background of the Exchange Offer" are incorporated herein by reference.

(b) *Use of Securities Acquired.*

The information set forth in the Prospectus in the section entitled *Questions and Answers About the Exchange Offer What does the Company intend to do with the shares of preferred stock that are tendered in the Exchange Offer?* is incorporated herein by reference.

(c) *Plans.*

Not applicable.

Item 7. Source and Amount of Funds or Other Consideration.

(a) *Source of Funds.*

The information set forth in the Prospectus in the sections entitled *Questions and Answers About the Exchange Offer What will I receive in the Exchange Offer if I tender my shares of preferred stock and they are accepted?* and *The Exchange Offer Consideration* are incorporated herein by reference.

(b) *Conditions.*

The information set forth in the Prospectus in the sections entitled *Questions and Answers About the Exchange Offer What are the conditions to the Exchange Offer?* and *The Exchange Offer Conditions of the Exchange Offer* are incorporated herein by reference.

(c) *Borrowed funds.*

Not applicable.

Item 8. Interest in Securities of the Subject Company.

(a) *Securities Ownership.*

As noted above, one of the Company's directors, Jeffrey Zwerdling, owns an aggregate of 14,000 shares of Series B Preferred Stock. Mr. Zwerdling's holdings represent less than one percent of the shares of Series B Preferred Stock outstanding (0.92%). No other person required to be named in response to Item 1003 of Regulation M-A beneficially owns any Series A Preferred Stock or Series B Preferred Stock.

(b) *Securities Transactions.*

Not applicable.

Item 9. Persons/Assets, Retained, Employed, Compensated or Used.

(a) *Solicitation of Recommendation.*

The information set forth in the Prospectus in the sections entitled *Summary Dealer Managers* and *The Exchange Offer Dealer Managers* are incorporated herein by reference. In connection with the Offer, the Company has entered into a Dealer Manager Agreement with Compass Point Research & Trading, LLC and Maxim Group LLC (collectively, the *Dealer Managers*). Pursuant to this agreement, the Dealer Managers will serve as the dealer managers for the transaction. As consideration for their services thereunder, the Company shall pay the Dealer Managers a fee equal to 5.5% of the aggregate liquidation preference of the Series A Preferred Stock and Series B Preferred Stock tendered for exchange. The Company will also pay the Dealer Managers reasonable out-of-pocket expenses and will indemnify the Dealer Managers against certain liabilities and expenses associated with the Offer, including liabilities under federal securities laws. The Company is under no obligation to pay the Dealer Managers any fee prior to the completion of the Offer.

Item 10. Financial Statements.

(a) *Financial Information.*

The information set forth in (i) the 2014 10-K in the sections entitled Selected Financial Data, Management's Discussion and Analysis of Financial Condition and Results of Operations, Financial Statements and Supplementary Data, and Exhibits and Financial Statement Schedules and (ii) the Company's Quarterly Report on Form 10-Q for the First Quarter ended March 31, 2015 in the sections entitled Financial Statements and Management's Discussion and Analysis of Financial Condition and Results of Operations is incorporated herein by reference.

(b) *Pro Forma Information.*

The information set forth in the Prospectus in the section entitled Unaudited Pro Forma Financial Information is incorporated herein by reference.

Item 11. Additional Information.

(a) *Agreements, Regulatory Requirements and Legal Proceedings.*

The information set forth in the Prospectus in the sections entitled The Exchange Offer Regulatory Matters is incorporated herein by reference.

(b) *Other Material Information.*

The information in the Prospectus and the related Letter of Transmittal, copies of which are filed with this Schedule TO as Exhibits (a)(1)(i) and (a)(1)(ii), respectively, are incorporated herein by reference.

Item 12. Exhibits.

| Exhibit Number | Description |
|-----------------------|--|
| (a)(1)(A) | Prospectus, dated July 13, 2015 (incorporated by reference to the Company's Pre-Effective Amendment No. 2 to Registration Statement on Form S-4, filed on July 13, 2015). |
| (a)(1)(B) | Letter of Transmittal, dated June 15, 2015 (incorporated by reference to Exhibit 99.1 of the Company's Registration Statement on Form S-4, filed on June 15, 2015). |
| (a)(1)(C) | Letters to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (incorporated by reference to Exhibit 99.2 of the Company's Registration Statement on Form S-4, filed on June 15, 2015). |
| (a)(1)(D) | Letter to Clients (incorporated by reference to Exhibit 99.3 of the Company's Registration Statement on Form S-4, filed on June 15, 2015). |
| (a)(1)(E) | Amended Letter of Transmittal, dated July 13, 2015 (incorporated by reference to Exhibit 99.4 of the Company's Registration Statement on Form S-4, filed on July 13, 2015). |
| (a)(1)(F) | Amended Letter to Brokers, Dealers Commercial Banks, Trust Companies and Other Nominees (incorporated by reference to Exhibit 99.5 of the Company's Registration Statement on Form S-4, filed on July 13, 2015). |
| (a)(1)(G) | Amended Letter to Clients (incorporated by reference to Exhibit 99.6 of the Company's Registration Statement on Form S-4, filed on July 13, 2015). |
| (a)(2) | Not applicable. |
| (a)(3) | Not applicable. |
| (a)(4)* | Incorporated by reference herein as Exhibit (a)(1)(A). |
| (a)(5) | Press release, dated June 15, 2015, announcing the commencement of the Exchange Offer. |
| (a)(6) | Press release, dated July 13, 2015, announcing the extension of the Exchange Offer. |
| (b) | Not applicable. |
| (d) | Not applicable. |
| (g) | Not applicable. |
| (h) | Opinions of Williams Mullen (incorporated by reference to Exhibits 5.1 and 8.1 of the Company's Registration Statement on Form S-4, filed on June 15, 2015). |

* Previously filed.

Item 13. Information Required by Schedule 13E-3.

(a) Not applicable.

SIGNATURES

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: July 13, 2015

**WHEELER REAL ESTATE INVESTMENT
TRUST, INC.**

By: /s/ Jon S. Wheeler
Jon S. Wheeler
Chairman and Chief Executive Officer

EXHIBIT INDEX

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| (a)(1)(G) | Amended Letter to Clients (incorporated by reference to Exhibit 99.6 of the Company's Registration Statement on Form S-4, filed on July 13, 2015). |
| (a)(2) | Not applicable. |
| (a)(3) | Not applicable. |
| (a)(4)* | Incorporated by reference herein as Exhibit (a)(1)(A). |
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| (b) | Not applicable. |
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| (g) | Not applicable. |
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* Previously filed.