

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549**

**FORM 10-K**

☒ **Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934  
For the Fiscal Year Ended December 31, 2021**

or

☐ **Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934  
For the Transition Period From \_\_\_\_\_ to \_\_\_\_\_**

Commission File Number 333-224557

**SHEPHERD'S FINANCE, LLC**

(Exact name of registrant as specified on its charter)

Delaware  
(State or other jurisdiction of  
Incorporation or organization)

36-4608739  
(I.R.S. Employer  
Identification No.)

13241 Bartram Park Blvd., Suite 2401, Jacksonville, Florida 32258  
(Address of principal executive offices)

(302) 752-2688  
(Registrant's telephone number including area code)

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

Title of Each Class	Trading Symbol(s)	Name of Each Exchange on Which Registered
None	None	None

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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. ☒

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

DOCUMENTS INCORPORATED BY REFERENCE:  
None.

**FORM 10-K**  
**SHEPHERD'S FINANCE, LLC**

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## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

Certain statements contained in this Form 10-K of Shepherd's Finance, LLC, other than historical facts, may be considered forward-looking statements within the meaning of the federal securities laws. Words such as "may," "will," "expect," "anticipate," "believe," "estimate," "continue," "predict," or other similar words identify forward-looking statements. Forward-looking statements appear in a number of places in this report, including without limitation, "Management's Discussion and Analysis of Financial Condition and Results of Operations," and include statements regarding our intent, belief or current expectation about, among other things, trends affecting the markets in which we operate, our business, financial condition and growth strategies.

Although we believe that the expectations reflected in these forward-looking statements are based on reasonable assumptions, forward-looking statements are not guarantees of future performance and involve risks and uncertainties. These risks and uncertainties include, but are not limited to: uncertainties relating to the effects of COVID-19, which includes length of the COVID-19 pandemic, vaccines and their availability both nationally and globally and the pace of recovery following the COVID-19 pandemic, among others; general economic uncertainty in key global markets and a worsening of global economic conditions or low levels of economic growth; the rate and the pace of economic recovery following economic downturns; and those other risks described in other risk factors as outlined in this Form 10-K. Actual results may differ materially from those predicted in the forward-looking statements as a result of various factors, including but not limited to those set forth in the "Risk Factors" section of this Form 10-K. For further information regarding risks and uncertainties associated with our business, and important factors that could cause our actual results to vary materially from those expressed or implied in such forward-looking statements, please refer to the factors set forth in the "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Risk Factors" sections of the documents we file from time to time with the U.S. Securities and Exchange Commission, including, but not limited to, this report and subsequent Quarterly Reports on Form 10-Q.

When considering forward-looking statements, our risk factors, as well as the other cautionary statements in this report and in our Registration Statement on Form S-1, should be kept in mind. Do not place undue reliance on any forward-looking statement. We are not obligated to update forward-looking statements.

## **PART I**

### **ITEM 1. BUSINESS**

#### **Purpose and History**

Our business is focused on commercial lending to participants in the residential construction and development industry. We believe this market is underserved because of the lack of traditional lenders currently fully participating in the market. We were originally formed as a Pennsylvania limited liability company on May 10, 2007. To meet our business objectives, we changed our name to Shepherd's Finance, LLC on December 2, 2011. We converted to a Delaware limited liability company on March 29, 2012. We are located in Jacksonville, Florida. As used in this report, "we," "us," "our," and "Company" refer to Shepherd's Finance, LLC. We have an Internet website at [www.shepherdsfinance.com](http://www.shepherdsfinance.com). We are not incorporating by reference into this report any material from our website. The reference to our website is an inactive textual reference to the uniform resource locator (URL) and is for your reference only.

The commercial loans we extend are secured by mortgages on the underlying real estate. We extend and service commercial loans to small-to-medium sized homebuilders for the purchase of lots and/or the construction of homes thereon. In some circumstances, the lot is purchased with an older home on the lot which is then either removed or rehabilitated. If the home is rehabilitated, the loan is referred to as a "rehab" loan. We also extend and service loans for the purchase of lots and undeveloped land and the development of that land into residential building lots. In addition, we may, depending on our cash position and the opportunities available to us, do none, any or all of the following: purchase defaulted unsecured debt from suppliers to homebuilders at a discount (and then secure that debt with real estate or other collateral), and purchase defaulted secured debt from financial institutions at a discount.

#### **Experience and Resources**

Our Chief Executive Officer ("CEO"), Mr. Wallach, has been in the housing industry since 1985. He was the Chief Financial Officer of a multi-billion-dollar supplier of building materials to home builders for 12 years. He also was responsible for that company's lending business for 20 years. During those years, he was responsible for the creation and implementation of many secured lending programs to builders. Some of these were performed fully by that company, and some were performed in partnership with banks. In general, the creation of all loans, and the resolution of defaulted loans, was his responsibility, whether the loans were company loans or loans in partnership with banks. Through these programs, he was responsible for the creation of approximately \$2,000,000,000 in loans which generated interest spread of \$50,000,000, after deducting for loan losses. Through the years, he managed the development of systems for reducing and managing the risks and losses on defaulted loans. Mr. Wallach also was responsible for that company's unsecured debt to builders, which reached over \$300,000,000 at its peak. He also gained experience in securing defaulted unsecured debt.

In addition, our Executive Vice President of Operations has 16 years of experience in this type of lending. Our Chief Financial Officer ("CFO") has 16 years of SEC registrant accounting experience. Our Executive Vice President has been in the housing industry for over 37 years including holding executive level positions for the majority of that time. Our Executive Vice President of Sales was appointed in April 2021 and has over 19 years of experience in the construction finance industry.

#### **Human Capital Resources**

As of December 31, 2021, we have retained 20 employees (three of which are lending representatives) including our CEO. The development, attraction, and retention of employees is a strong focus for the Company, as is fostering and maintaining a strong, healthy corporate culture. Additionally, as described in more detail elsewhere in this report, we have an executive compensation program designed to attract, retain, and motivate highly talented executives and to align each executive's incentives with our short-term and long-term objectives, while maintaining a healthy and stable financial position.

## **Opportunity, Strategy, and Approach**

### ***Background and Strategy***

Finance markets are highly fragmented, with numerous large, mid-size, and small lenders and investment companies, such as banks, savings and loan associations, credit unions, insurance companies, and institutional lenders, all competing for investment opportunities. Many of these market participants experienced losses, as a result of the housing market (which started to decline in 2006, reached its bottom in 2008, and is now getting back to historical norms as of 2021), and their participation in lending in it. As a result of credit losses and restrictive government oversight, the financial institutions are not participating in this market to the extent they had before the credit crisis (as evidenced by the general lack of availability of construction financing and the higher cost of financing for the deals actually done). We believe that these lenders, while increasing their willingness and capacity to lend, will be unable to satisfy the current demand for residential construction financing, creating attractive opportunities for niche lenders such as us for many years to come. Our goal is not to be a customer's only source of commercial lending, but an extra, more user-friendly piece of their financing. In 2021, while more small banks returned to the construction lending market, the demand for our loan products has remained relatively constant. We attribute this to our sales staff, a housing market which has been strong in 2021, and an increase in the number of small home builders in the market. Housing starts in 2021 were at (for the year) the historical average of between 1,000,000 and 1,100,000 single family starts.

Our loans are marketed by lending representatives who work for us and are driven to maintain long-term customer relationships. Compensation for loan originators is focused on the profitability of loans originated, not simply the volume of loans originated. As of December 31, 2021, we have retained 20 employees (three of which are lending representatives) including our CEO. In his previous experience, our CEO had a nationwide staff of 20 lenders working in the field.

Our efforts are designed to create a loan portfolio that includes some or all of the following investment characteristics: (i) provides current income; (ii) is well-secured by residential real estate; (iii) is short term in nature; and (iv) provides high interest spreads.

Our investment policies may be amended or changed at any time by our board of managers. In the years ahead, we plan on continuing our expansion of lending, increasing our geographic diversity, growing our rehab lending program, and improving our financial performance. We will be adding systems and people to accomplish these goals.

As we continue to grow our business, we are focusing some of our efforts on our rehab program, which we believe in the long run will face less bank competition and have more stable demand than our new construction program.

### ***Risk and Mitigation***

We believe that while creating speculative construction loans is a high-risk venture, the reduction in competition, the differences in our lending versus typical small bank lending, and our loss mitigation techniques will all help this to continue to be a profitable business.

We engage in various activities to try to mitigate the risks inherent in this type of lending by:

- Keeping the loan-to-value ratio ("LTV"), between 60% and 75% on a portfolio basis, however, individual loans may, from time to time, have a greater LTV;
- Generally using deposits from the builder on home construction loans to ensure the completion of the home. Lending losses on defaulted loans are usually a higher percentage when the home is not built, or is only partially built;
- Having a higher yield than other forms of secured real estate lending;
- Using interest escrows for some of our loans;
- Aggressively working with builders who are in default on their loan before and during foreclosure. This technique generally yields a reduced realized loss; and
- Market grading. We review all lending markets, analyzing their historic housing start cycles. Then, the current position of housing starts is examined in each market. Markets are classified into volatile, average, or stable, and then graded based on that classification and our opinion of where the market is in its housing cycle. This grading is then used to determine the builder deposit amount, LTV, and how much of the lot purchase the builder is required to fund.

The following table contains items that we believe differentiate us from our competitors:

Item	Our Methods	Comments
Lending Regulation	We follow various state and federal laws, but are not regulated and controlled by bank examiners from the government. We follow best practices we have learned through our experience, some of which are required of banks.	For instance, banks are not required to buy title insurance by law, but typically banks do purchase title insurance for the properties on which they lend. We generally do not, as it is very difficult to collect on title policies. Instead, we use title searches to protect our interests.
FDIC Insurance	We do not offer FDIC insurance to our unsecured notes investors.	Our yield to our customers, and our cost of funds, is typically higher than that of most banks. We charge our borrowers higher interest rates than do most banks. We also save money by not paying for FDIC insurance.
Capital Structure	Typically, our unsecured notes offered through our notes program are due in one to four years, or when the Note matures.	This results in liquidity risk (i.e., funding borrowing requests or maturities of debt). Our assets typically turnover much quicker (about 4 times faster) than our average unsecured debt does, and our unsecured debt is mostly prepayable. These items help keep liquidity stable.
Community Reinvestment Act (CRA) <sup>(1)</sup>	We do not participate in the CRA.	Our sole purpose in making each individual loan is to maximize our returns while maintaining proper risk management.
Leverage	We try to maintain a 15% ratio of equity (including redeemable preferred equity) to loan assets.	Our equity to loan assets, net ratio was 14.1% as of December 31, 2021. The higher the percentage, the more potential losses the company can absorb without impacting debt holders.
Product Diversification	We generally make loans to builders to purchase lots and/or to construct or rehab homes.	We have extensive experience in our field.
Geographic Diversity	We lend in 20 states as of December 31, 2021.	We believe that this geographic diversity helps in down markets, as not all housing markets decrease at the same rate and time.
Governmental Bailouts	Most likely not eligible.	We are not likely to be eligible for bank bailouts, which have happened periodically. We maintain a better leverage ratio to counter this. We received two PPP loans, one in 2020 which was forgiven in 2020 and one in 2021 which was forgiven in 2021.
Underwriting	We focus on items that, in our experience, tend to predict risk.	These items include using collateral, controlling LTVs, controlling the number of loans in one subdivision, underwriting appraisals, conducting property inspections, and maintaining certain files and documents similar to those that a bank might maintain.

<sup>(1)</sup> The CRA subjects a bank who receives FDIC insurance to regulatory assessment to determine if the bank meets the credit needs of its entire community, and to consider that determination in its evaluation of any application made by the bank for, among other things, approval of the acquisition or establishment of a bank branch.

### *Lines of Business*

Our efforts are designed to create a portfolio that includes some or all of the following investment characteristics: (i) provides current income; (ii) is well-secured by residential real estate; (iii) is short term in nature; and (iv) provides high interest spreads. While we primarily provide commercial construction loans to homebuilders (for residential real estate), we may also purchase defaulted unsecured debt from suppliers to homebuilders at a discount (and then secure that debt with real estate or other collateral), purchase defaulted secured debt from financial institutions at a discount, and purchase real estate in which we will operate our business.

Our investment policies may be amended or changed at any time by our board of managers.

#### *Commercial Construction Loans to Homebuilders*

We extend and service commercial loans to small-to-medium sized homebuilders for the purchase of lots and/or the construction of homes thereon. Our customers generally benefit from doing business with us not just because they are able to sell additional homes (which we finance), but because, as they build additional homes, they are able to increase sales of homes that are built as contracted homes, where the eventual home owner obtains the loan. Builders generally have more success selling homes when a model or spec home is available for customers to see. We also extend and service loans for the purchase of undeveloped land and the development of that land into residential building lots. In addition, we lend money to purchase and rehabilitate older existing homes. Most of the loans are for “spec homes” or “spec lots,” meaning they are built or developed speculatively (with no specific end-user home owner in mind).

In a typical home construction transaction, a homebuilder obtains a loan to purchase a lot and build a home on that lot. In some cases, the builder has a contract with a customer to purchase the home upon its completion. In other cases, the home is built as a spec home, but the homebuilder believes it will sell before or shortly after completion, and therefore, building the home before it is under contract will increase the homebuilder’s sales and profitability. The builder may also believe that the construction of a spec home will increase the number of contract sales the homebuilder will have in a given year, as it may be easier to sell contract homes when the customer can see the builder’s work in the spec home. In some cases, these speculatively built homes are constructed with the intention to keep them as a model for a period of time, to increase contract sales, and then be sold. These are called model homes. While we may lend to a homebuilder for any of these types of new construction homes, through December 31, 2021, about 66% of our construction loans have been spec homes and 34% have been contracts.

In a typical rehab transaction, we fund all of the purchase price, and then all or a portion of the cost to complete the project. In some circumstances, we are unable to see the inside of the home prior to closing, so we assume that anything from drywall to completion needs to be redone, as well as what we can see from the outside. Because we are flexible in our need to see the inside of the home, and we only use experienced builders as customers for this type of lending, we believe that this differentiates us from banks.

We fund the loans that we originate using available cash resources that are generated primarily from borrowings, our loan purchase and sale agreements, proceeds from the fixed rate subordinated notes (“Notes”) offered pursuant to our public offering (“Notes Program”), equity, and net operating cash flow. We intend to continue funding loans we originate using the same sources.

There is a seasonal aspect to home construction, and this affects our monthly cash flow. In general, since the home construction loans we create will last less than a year on average, and since we are geographically diverse, the seasonality impact is somewhat mitigated.

Generally, our real estate loans are secured by one or more of the following:

- the parcels of land to be developed;
- finished lots;
- new or rehabbed single-family homes; and/or
- in most cases, personal guarantees of the principals of the borrower entity.

Most of our lending is based on the following general policies:

<b>Customer Type</b>	Small-to-Medium Size Homebuilders
<b>Loan Type</b>	Commercial
<b>Loan Purpose</b>	Construction/Rehabilitation of Homes or Development of Lots
<b>Security</b>	Homes, Lots, and/or Land
<b>Priority</b>	Generally, our loans are secured by a first priority mortgage lien; however, we may make loans secured by a second or other lower priority mortgage lien.
<b>Loan-to-Value Averages</b>	60-75%
<b>Loan Amounts</b>	Average home construction loan is \$300,000. Development loans vary greatly.
<b>Term</b>	Demand, however most home construction loans typically payoff in under one year, and development loans are typically three to five-year projects.
<b>Rate</b>	Cost of Funds ("COF") plus 3%, minimum rate of 7%
<b>Origination Fee</b>	5% for home construction loans, development loans on a case-by-case basis
<b>Title Insurance</b>	Only on high-risk loans and rehabs
<b>Hazard Insurance</b>	Always
<b>General Liability Insurance</b>	Always
<b>Credit</b>	Builder should have significant building experience in the market, be building in the market currently, be able to make payments of interest, be able to make the required deposit, have acceptable personal credit, and have open lines of credit (unsecured) with suppliers reasonably within terms. Required deposits may be able to be avoided if we do not fund the purchase of land. We generally do not advertise to find customers, but use our loan representatives and our builder website, <a href="http://www.constructionspecloans.com">www.constructionspecloans.com</a> .
<b>Third Party Guarantor</b>	None, however the loans are generally guaranteed by the owners of the borrower.

We may change these policies at any time based on then-existing market conditions or otherwise, at the discretion of our CEO and the Loan Policy Committee,



## 2022 Outlook

In 2022, we anticipate using proceeds from the Notes Program, the loan purchase and sale agreements, and other sources to generate additional loans (mostly spec home construction loans), increase loan balances, and increase our customer and geographic diversity. We anticipate that the rehab program will grow as a percentage of our origination volume.

### Commercial Loans – Construction Loan Portfolio Summary

The following is a summary of our loan portfolio to builders for home construction loans as of December 31, 2021:

(All dollar [\$] amounts shown in table in thousands.)

State	Number of Borrowers	Number of Loans	Value of Collateral <sup>(1)</sup>	Commitment Amount	Gross Amount Outstanding	Loan to Value Ratio <sup>(2)</sup>	Loan Fee
Arizona	2	3	\$ 995	\$ 697	\$ 390	70%	5%
Connecticut	2	4	1,535	1,084	719	71%	5%
Delaware	1	6	5,960	2,387	1,817	40%	5%
Florida	18	88	28,922	21,787	13,649	75%	5%
Georgia	2	2	1,130	631	366	56%	5%
Illinois	2	2	1,890	1,199	627	63%	5%
Indiana	1	1	624	436	347	70%	5%
Louisiana	2	3	590	387	125	66%	5%
Michigan	2	12	3,431	2,586	2,299	75%	5%
New Jersey	1	7	2,382	1,910	1,664	80%	5%
New York	1	1	525	378	305	72%	5%
North Carolina	8	14	7,141	4,349	2,105	61%	5%
Ohio	2	9	2,929	2,132	1,105	73%	5%
Oregon	2	2	923	646	440	70%	5%
Pennsylvania	2	20	21,867	13,487	10,078	62%	5%
South Carolina	10	32	8,353	5,793	3,579	69%	5%
Tennessee	2	2	940	582	319	62%	5%
Texas	2	5	2,873	1,750	549	61%	5%
Virginia	3	3	1,140	765	519	67%	5%
Washington	1	8	4,785	3,022	2,104	63%	5%
<b>Total</b>	<b>66</b>	<b>224</b>	<b>\$ 98,935</b>	<b>\$ 66,008</b>	<b>\$ 43,106</b>	<b>67%<sup>(3)</sup></b>	<b>5%</b>

<sup>(1)</sup> The value is determined by the appraised value.

<sup>(2)</sup> The loan to value ratio is calculated by taking the commitment amount and dividing by the appraised value.

<sup>(3)</sup> Represents the weighted average loan to value ratio of the loans.

The following is a summary of our loan portfolio to builders for home construction loans as of December 31, 2020:

(All dollar [\$] amounts shown in table in thousands.)

State	Number of Borrowers	Number of Loans	Value of Collateral (1)	Commitment Amount	Gross Amount Outstanding	Loan to Value Ratio (2)	Loan Fee
Arizona	3	4	\$ 1,821	\$ 1,503	\$ 1,004	60%	5%
Connecticut	1	1	515	382	262	65%	5%
Delaware	1	1	585	409	187	70%	5%
Florida	16	80	25,779	21,193	16,201	82%	5%
Georgia	3	3	1,300	839	476	65%	5%
Illinois	2	2	1,890	1,199	474	60%	5%
Michigan	4	9	2,451	1,942	805	79%	5%
Mississippi	1	1	240	189	166	79%	5%
New Jersey	1	5	1,357	1,339	928	99%	5%
New York	3	2	1,184	814	845	69%	5%
North Carolina	6	18	4,519	3,123	2,059	69%	5%
Ohio	3	8	2,703	2,020	1,393	75%	5%
Oregon	1	2	1,217	852	238	70%	5%
Pennsylvania	3	24	22,791	13,593	9,825	60%	5%
South Carolina	8	27	7,284	4,930	3,195	68%	5%
Tennessee	3	5	2,169	1,463	509	67%	5%
Texas	3	8	2,806	2,106	1,191	75%	5%
Utah	2	6	2,583	1,822	1,542	71%	5%
Virginia	1	1	505	353	79	70%	5%
Washington	1	5	2,030	1,311	508	65%	5%
Wisconsin	1	1	539	332	332	62%	5%
<b>Total</b>	<b>67</b>	<b>213</b>	<b>\$ 86,268</b>	<b>\$ 61,714</b>	<b>\$ 42,219</b>	<b>72%<sup>(3)</sup></b>	<b>5%</b>

(1) The value is determined by the appraised value.

(2) The loan to value ratio is calculated by taking the commitment amount and dividing by the appraised value.

(3) Represents the weighted average loan to value ratio of the loans.

#### Commercial Loans – Real Estate Development Loan Portfolio Summary

In a typical development transaction, a homebuilder/developer purchases a specific parcel or parcels of land. Developers must secure financing in order to pay the purchase price for the land as well as to pay expenses incurred while developing the lots. This is the financing we provide. Once financing has been secured, the lot developers create individual lots. Developers secure permits allowing the property to be developed and then design and build roads and utility systems for water, sewer, gas, and electricity to service the property. The individual lots are then sold before a home is built on them; paid off, built on and then sold; or built on, then sold and paid off (in these cases, we may subordinate our loan to the home construction loan).

The following is a summary of our loan portfolio to builders for land development as of December 31, 2021:

(All dollar [\$] amounts shown in table in thousands.)

States	Number of Borrowers	Number of Loans	Value of Collateral (1)	Commitment Amount <sup>(2)</sup>	Gross Amount Outstanding	Loan to Value Ratio <sup>(3)</sup>	Interest Spread
Pennsylvania	1	4	\$ 9,312	\$ 6,500	\$ 6,103	66%	varies
Florida	5	5	816	1,297	611	75%	7%
Texas	1	1	70	125	77	110%	7%
Connecticut	1	1	350	180	180	51%	7%
Delaware	1	1	543	147	147	27%	7%
South Carolina	3	3	1,373	846	539	39%	7%
<b>Total</b>	<b>12</b>	<b>15</b>	<b>\$ 12,464</b>	<b>\$ 9,095</b>	<b>\$ 7,657</b>	<b>61%<sup>(4)</sup></b>	<b>7%</b>

(1) The value is determined by the appraised value adjusted for remaining costs to be paid and third-party mortgage balances. Part of this collateral is \$1,720 of preferred equity in our Company. In the event of a foreclosure on the property securing these loans, the portion of our collateral that is preferred equity in our Company might be difficult to sell, which could impact our ability to eliminate the loan balance.

(2) The commitment amount does not include unfunded letters of credit.

(3) The loan to value ratio is calculated by taking the outstanding amount and dividing by the appraised value calculated as described above.

(4) Represents the weighted average loan to value ratio of the loans.

The following is a summary of our loan portfolio to builders for land development as of December 31, 2020:

(All dollar [\$] amounts shown in table in thousands.)

States	Number of Borrowers	Number of Loans	Value of Collateral (1)	Commitment Amount <sup>(2)</sup>	Gross Amount Outstanding	Loan to Value Ratio <sup>(3)</sup>	Interest Spread
Pennsylvania	1	2	\$ 7,361	\$ 8,200	\$ 6,175	84%	7%
Florida	3	3	1,373	1,193	1,029	87%	7%
New York	1	1	1,238	451	452	36%	7%
North Carolina	1	1	400	260	136	34%	7%
South Carolina	2	2	1,256	711	438	35%	7%
<b>Total</b>	<b>8</b>	<b>9</b>	<b>\$ 11,628</b>	<b>\$ 10,815</b>	<b>\$ 8,230</b>	<b>71%<sup>(4)</sup></b>	<b>7%</b>

(1) The value is determined by the appraised value adjusted for remaining costs to be paid and third-party mortgage balances. Part of this collateral is \$1,630 of preferred equity in our Company. In the event of a foreclosure on the property securing these loans, the portion of our collateral that is preferred equity in our Company might be difficult to sell, which could impact our ability to eliminate the loan balance.

(2) The commitment amount does not include unfunded letters of credit.

(3) The loan to value ratio is calculated by taking the outstanding amount and dividing by the appraised value calculated as described above.

(4) Represents the weighted average loan to value ratio of the loans.

### Credit Quality Information

See the notes to our financial statements for credit quality information.

### Competition

Historically, our industry has been highly competitive. We compete for opportunities with numerous public and private investment vehicles, including financial institutions, specialty finance companies, mortgage banks, pension funds, opportunity funds, hedge funds, REITs, and other institutional investors, as well as individuals. Many competitors are significantly larger than us, have well-established operating histories and may have greater access to capital, resources and other advantages over us. These competitors may be willing to accept lower returns on their investments or to modify underwriting standards and, as a result, our origination volume and profit margins could be adversely affected.

We believe that this is a good time to extend commercial loans to builders in the residential real estate market because, currently, this market appears underserved, and many of our competitors have sustained losses due to the impact of the COVID-19 pandemic and, therefore, are reluctant to lend in this space at this time. We expect our loans to be different than other lenders in the markets in which we are active. Typically, the differences are:

- our loans may have a higher fee;
- our loans typically require a small deposit which is refundable, versus a large upfront payment for the lot which is not refundable; and
- some of our loans may have lower costs as a result of not requiring title insurance.

## **Regulatory Matters**

### ***Financial Regulation***

Our operations are not subject to the stringent regulatory requirements imposed upon the operations of commercial banks, savings banks, and thrift institutions. We are not subject to periodic compliance examinations by federal or state banking regulators. Further, our Notes are not certificates of deposit or similar obligations or guaranteed by any depository institution and are not insured by the FDIC or any governmental or private insurance fund, or any other entity.

### ***The Investment Company Act of 1940***

An investment company is defined under the Investment Company Act of 1940, as amended (the “Investment Company Act”), to include any issuer engaged primarily in the business of investing, reinvesting, or trading in securities. Absent an exemption, investment companies are required to register as such with the SEC and to comply with various governance and operational requirements. If we were considered an “investment company” within the meaning of the Investment Company Act, we would be subject to numerous requirements and restrictions relating to our structure and operation. If we were required to register as an investment company under the Investment Company Act and to comply with these requirements and restrictions, we may have to make significant changes in our structure and operations to comply with exemption from registration, which could adversely affect our business. Such changes may include, for example, limiting the range of assets in which we may invest. We intend to conduct our operations so as to fit within an exemption from registration under the Investment Company Act for purchasing or otherwise acquiring mortgages and other liens on and interest in real estate. In order to satisfy the requirements of such exemption, we may need to restrict the scope of our operations.

### ***Environmental Compliance***

We do not believe that compliance with federal, state, or local laws relating to the protection of the environment will have a material effect on our business in the foreseeable future. However, loans we extend or purchase are secured by real property. In the course of our business, we may own or foreclose and take title to real estate that could be subject to environmental liabilities with respect to these properties. We (or our loan customers) may be held liable to a governmental entity or to third parties for property damage, personal injury, investigation, and clean-up costs incurred by these parties in connection with environmental contamination or may be required to investigate or clean up hazardous or toxic substances or chemical release at a property. The costs associated with the investigation or remediation activities could be substantial. In addition, if we become the owner of or discover that we were formerly the owner of a contaminated site, we may be subject to common law claims by third-parties based on damages and costs resulting from environmental contamination emanating from the property. To date, we have not incurred any significant costs related to environmental compliance and we do not anticipate incurring any significant costs for environmental compliance in the future. Generally, when we are lending on property which is being developed into single family building lots, an environmental assessment is done by the builder for the various governmental agencies. When we lend for new construction on newly developed lots, the lots have generally been reviewed while they were being developed. We also perform our own physical inspection of the lot, which includes assessing potential environmental issues. Before we take possession of a property through foreclosure, we again assess the property for possible environmental concerns, which, if deemed to be a significant risk compared to the value of the property, could cause us to forego foreclosure on the property and to seek other avenues for collection.

## **ITEM 1A. RISK FACTORS**

*Below are risks and uncertainties that could adversely affect our operations that we believe are material to investors. Other risks and uncertainties may exist that we do not consider material based on the information currently available to us at this time.*

### Risks Related to our Business

*Our business is not industry-diversified. The United States economy experienced a slow recovery after the significant downturn in the homebuilding industry beginning in 2007, which was one of the worst credit and liquidity crises since the 1930s. Deterioration in the homebuilding industry or economic conditions, including as a result of COVID-19, could decrease demand and pricing for new homes and residential home lots. A decline in housing values similar to the national downturn in the real estate market that began in 2007 would have a negative impact on our business. Smaller value declines will also have a negative impact on our business. These factors may decrease the likelihood we will be able to generate enough cash to repay the Notes.*

Developers and homebuilders to whom we may make loans use the proceeds of our loans to develop raw land into residential home lots and construct homes. The developers obtain the money to repay our development loans by selling the residential home lots to homebuilders or individuals who will build single-family residences on the lots, or by obtaining replacement financing from other lenders. A developer's ability to repay our loans is based primarily on the amount of money generated by the developer's sale of its inventory of single-family residential lots. Homebuilders obtain the money to repay our loans by selling the homes they construct or by obtaining replacement financing from other lenders, and thus, the homebuilders' ability to repay our loans is based primarily on the amount of money generated by the sale of such homes.

The homebuilding industry is cyclical and is significantly affected by changes in industry conditions, as well as in general and local economic conditions, such as:

- employment level and job growth;
- demographic trends, including population increases and decreases and household formation;
- availability of financing for homebuyers;
- interest rates;
- affordability of homes;
- consumer confidence;
- levels of new and existing homes for sale, including foreclosed homes and homes held by investors and speculators; and
- housing demand generally.

These conditions may occur on a national scale or may affect some of the regions or markets in which we operate more than others.

We generally lend a percentage of the values of the homes and lots. These values are determined shortly prior to the lending. If the values of homes and lots in markets in which we lend drop fast enough to cause the builders losses that are greater than their equity in the property, we will be forced to liquidate the loan in a fashion which will cause us to lose money. If these losses when combined and added to our other expenses are greater than our revenue from interest charged to our customers, we will lose money overall, which will hurt our ability to pay interest and principal on the Notes. Values are typically affected by demand for homes, which can change due to many factors, including but not limited to, demographics, interest rates, the overall economy, which can be impacted by outbreaks of communicable illnesses, including the ongoing COVID-19 pandemic, cost of building materials and labor, availability of financing for end-users, inventory of homes available and governmental action or inaction. If there is a tightening of the credit markets, it would be more difficult for potential homeowners to obtain financing to purchase homes. If housing prices decline or sales in the housing market decline, our customers may have a hard time selling their homes at a profit. This could cause the amount of defaulted loans that we will own to increase. An increase in defaulted loans would reduce our revenue and could lead to losses on our loans. A decline in housing prices will further increase our losses on defaulted loans. If the amount of defaulted loans or the loss per defaulted loan is large enough, we will operate at a loss, which will decrease our equity. This could cause us to become insolvent, and we will not be able to pay back Note holders' principal and interest on the Notes.

***We face risks related to an epidemic, pandemic or other health crisis, such as the novel coronavirus (COVID-19 pandemic), which could have a material adverse effect on our business, financial condition, liquidity, results of operations, and prospects.***

We face risks related to an epidemic, pandemic, or other health crisis. COVID-19 has spread globally and the pandemic has caused significant disruptions to the economy. We have been impacted and continue to face risks related to COVID-19, which has caused disruptions to the economy and in all of the markets in which we lend. Our operating results depend significantly on the homebuilding industry. The pandemic may cause decreases in demand for the sales of homes in those areas and others in the future, which could negatively affect our homebuilding customers and their ability to repay our loans. In such event, our business, financial condition, liquidity, results of operations, and prospects could be adversely impacted, including our ability to repay our Notes. The ultimate extent of the impact of the COVID-19 pandemic on our business, financial condition, liquidity, results of operations, and prospects will depend on future developments, which are highly uncertain and cannot be predicted, including the effectiveness of vaccines against COVID-19 and its variants, public adoption rates of vaccines, and the uncertainty of new variants of the virus, among others. As we emerge from the pandemic, housing trends may shift in a negative direction in some or all of our markets.

As a result of the potential impact of COVID-19, we suspended originations of new loans as of March 20, 2020 in order to maintain our liquidity and based on our expectation that home values would likely decrease in the near future. We initially told all of our borrowers that we would fund all loans where the underlying home was already under construction, and advised them to build as quickly as possible to bring the homes on the market as soon as possible. For loans where the borrower had not yet begun construction of the underlying home, we initially told them that we would not fund construction and they should therefore not start construction.

On May 7, 2020, the Company made the decision to reopen lending under normal, pre-COVID-19 terms for a limited group of certain of its customers. In addition, the decision was made to allow rehab loans to builders at terms that are less conservative than those established in April 2020 but more conservative than terms prior to the arrival of COVID-19. At that point, the Company was offering normal terms to approximately 40% of its customers, and restricted terms to approximately 60% of its customers. In the second half of 2020, the Company slowly increased the percentage of customers with normal terms to near 100% by the end of the year. The initial negative impact of COVID-19 can be seen in our financial statements, predominantly in 2020.

Due to the continued cases of the COVID-19 pandemic, there are still economic uncertainties that could negatively impact net income (loss). Other financial impacts could occur though such potential impact is unknown at this time.

***The homebuilding industry could experience adverse conditions, and the industry's implementation of strategies in response to such conditions may not be successful.***

The United States homebuilding industry experienced a significant downturn beginning in 2007. During the course of the downturn, many homebuilders focused on generating positive operating cash flow, resizing and reshaping their product for a more price-conscious consumer and adjusting finished new home inventories to meet demand, and did so in many cases by significantly reducing the new home prices and increasing the level of sales incentives. Notwithstanding these strategies, homebuilders continued to experience an elevated rate of sales contract cancellations, as many of the factors that affect new sales and cancellation rates are beyond the control of the homebuilding industry. Although the homebuilding industry has experienced positive gains over the last decade, there can be no assurance that these gains will continue, and these gains may be impacted if negative economic conditions occur as a result of COVID-19, or if there is a negative impact on the homebuilding industry's expectations for future home sales. The homebuilding industry could suffer similar, or worse, adverse conditions in the future. Decreases in new home sales would increase the likelihood of defaults on our loans and, consequently, reduce our ability to repay Note holders' principal and interest on the Notes.

***We have \$46,943,000 of loan assets as of December 31, 2021. A 35% reduction in total collateral value would reduce our earnings and net worth by \$2,828,000. Larger reductions would result in lower earnings and lower net worth.***

As of December 31, 2021, we had \$46,943,000 of loan assets on our books. These assets are recorded on our balance sheet at the lower of the loan amount or the value of the collateral after deduction for expected selling expenses. A reduction in the value of the underlying collateral could result in significant losses. A 35% reduction, for instance, would result in a \$2,828,000 loss. Accordingly, our business is subject to risk of a loss of a portion of our Note holders' investments if such a reduction were to occur.

***We have \$7,657,000 of development loan assets as of December 31, 2021, which unlike our construction loans, are long term loans. This longer duration as well as the nature of collateral (raw ground and lots) creates more risk for that portion of our portfolio.***

Development loans are riskier than construction loans for two reasons: the duration of the loan and the nature of the collateral. The duration (being three to five years as compared to generally less than one year on construction loans) allows for a greater period of time over which the collateral value could decrease. Also, the collateral value of development loans is more likely to change in greater percentages than that of built homes. For example, during a 70% reduction in housing starts, newly completed homes still have value, but lots may be worthless. This added risk to this portion of our portfolio adds risk to our investors as our net worth would be significantly impacted by losses.

***Currently, we are reliant on a single developer and homebuilder, the Hoskins Group, who is concentrated in the Pittsburgh, Pennsylvania market, for a significant portion of our revenues and a portion of our capital. Our second largest customer is in the Orlando, Florida market and is also a significant portion of our portfolio.***

As of December 31, 2021, 26% of our outstanding loan commitments consisted of loans made to Benjamin Marcus Homes, LLC and Investor's Mark Acquisitions, LLC, both of which are owned by Mark Hoskins (collectively all three parties are referred to herein as the "Hoskins Group"). We refer to the loans to the Hoskins Group as the "Pennsylvania Loans." The Hoskins Group is concentrated in the Pittsburgh, Pennsylvania market. The Hoskins Group also has a preferred equity interest in us, and in January 2021 we invested approximately \$500,000 in Series A Preferred Units in Benjamin Marcus Homes, LLC. Therefore, currently, we are reliant upon a single developer and homebuilder who is concentrated in a single city, for a significant portion of our revenues and a portion of our capital. Any event of bankruptcy, insolvency, or general downturn in the business of this developer and homebuilder or in the Pittsburgh housing market generally will have a substantial adverse financial impact on our business and our ability to pay back Note holders' investments in the Notes in the long term. Adverse conditions affecting the local housing market could include, but are not limited to, declines in new housing starts, declines in new home prices, declines in new home sales, increases in the supply of available building lots or built homes available for sale, increases in unemployment, and unfavorable demographic changes. One of our independent managers, Gregory L. Sheldon, also serves an advisor to the Hoskins Group and, consequently, Mr. Sheldon may face conflicts of interest in the advice that he provides to us and the Hoskins Group, including if any such adverse condition were to materialize.

Also, as of December 31, 2021, 7% of our outstanding loan commitments consisted of loans made to a customer in Orlando, Florida.

***Increases in interest rates, reductions in mortgage availability, or increases in other costs of home ownership could prevent potential customers from buying new homes and adversely affect our business and financial results.***

Most new home purchasers finance their home purchases through lenders providing mortgage financing. Immediately prior to 2007, interest rates were at historically low levels and a variety of mortgage products were available. As a result, home ownership became more accessible. The mortgage products available included features that allowed buyers to obtain financing for a significant portion or all of the purchase price of the home, had very limited underwriting requirements or provided for lower initial monthly payments. Accordingly, more people were qualified for mortgage financing.

Since 2007, the mortgage lending industry has experienced significant instability, beginning with increased defaults on subprime loans and other nonconforming loans and compounded by expectations of increasing interest payment requirements and further defaults. This, in turn, resulted in a decline in the market value of many mortgage loans and related securities. Lenders, regulators and others questioned the adequacy of lending standards and other credit requirements for several loan products and programs offered in those years. Credit requirements tightened, and investor demand for mortgage loans and mortgage-backed securities declined. In general, fewer loan products, tighter loan qualifications, and a reduced willingness of lenders to make loans make it more difficult for many buyers to finance the purchase of homes. These factors served to reduce the pool of qualified homebuyers and made it more difficult to sell to first-time and move-up buyers.

Mortgage rates may rise significantly over the next several years. The benefit of recent trends loosening credit to potential end users of homes may be outweighed by the rise of interest rates for those borrowers, which might lower demand for new homes. In response to the COVID-19 pandemic, the Federal Open Market Committee cut short-term interest rates to a record low range of 0% to 0.25%. The Federal Reserve has indicated it expects rates to increase five times through 2022 and possibly longer. If short-term interest rates continue to remain at their historically low levels for a prolonged period and assuming longer-term interest rates fall further, we could experience a reduced interest spread as our interest-earning assets would continue to reprice downward while our interest-bearing liability rates could fail to decline in tandem, which would have an adverse effect on our net interest income.

A reduction in the demand for new homes may reduce the amount and price of the residential home lots sold by the developers and homebuilders to which we loan money and/or increase the amount of time such developers and homebuilders must hold the home lots in inventory. These factors increase the likelihood of defaults on our loans, which would adversely affect our business and consolidated financial results.

***Most of our assets are commercial construction loans to homebuilders and/or developers which are a higher-than-average credit risk, and therefore could expose us to higher rates of loan defaults, which could impact our ability to repay amounts owed to Note holders.***

Our primary business is extending commercial construction loans to homebuilders, along with some loans for land development. These loans are considered higher risk because the ability to repay depends on the homebuilder's ability to sell a newly built home. These homes typically are not sold by the homebuilder prior to commencement of construction. Therefore, we may have a higher risk of loan default among our customers than other commercial lending companies. If we suffer increased loan defaults in any given period, our operations could be materially adversely affected, and we may have difficulty making our principal and interest payments on the Notes.

***If a large number of our current and prospective borrowers are unable to repay their loans within a normal average number of months, we will experience a significant reduction in our income and liquidity, and may not be able to repay the Notes as they become due.***

Construction loans that we extend are expected to be repaid in a normal average number of months, typically nine months, depending on the size of the loan. Development loans are expected to last for many years. We have interest paid on a monthly basis, but also charge a fee which will be earned over the life of the loan. If these loans are repaid over a longer period of time, the amount of income that we receive on these loans expressed as a percentage of the outstanding loan amount will be reduced, and fewer loans with new fees will be able to be made, since the cash will not be available. This will reduce our income as a percentage of the Notes, and if this percentage is significantly reduced it could impair our ability to pay principal and interest on the Notes.

***Our underwriting standards and procedures are more lenient than conventional lenders.***

We invest in loans with borrowers who will not be required to meet the credit standards of conventional mortgage lenders, which is riskier than investing in loans made to borrowers who are required to meet those higher credit standards. Because we generally approve loans more quickly than some other lenders or providers of capital, there may be a risk that the due diligence we perform as part of our underwriting procedures will not reveal the need for additional precautions. If so, the interest rate that we charge and the collateral that we require may not adequately protect us or generate adequate returns for the risk undertaken.

***We have foreclosed assets as of December 31, 2021, which unlike our loans, are recorded on our balance sheet at the value of the collateral, net of estimated selling expenses.***

A reduction in the value of the underlying collateral of our foreclosed assets could result in significant losses. For example, a 35% reduction in the value of the underlying collateral (net of estimated selling expenses) would result in a \$953,000 loss. Our business is subject to increased risk of not being able to repay timely our Note holders' investments if such a reduction were to occur.



***If we lose or are unable to hire or retain key personnel, we may be delayed or unable to implement our business plan, which would adversely affect our ability to repay the Notes.***

We do not have an employment agreement with any of our employees and cannot guarantee that they will remain affiliated with us. Although we have purchased key person life insurance on our Chief Executive Officer, we do not have key person insurance on any of our other employees. If any of our key employees were to cease their affiliation with us, our consolidated operating results could suffer. We believe that our future success depends, in part, upon our ability to hire and retain additional personnel. We cannot assure our investors that we will be successful in attracting and retaining such personnel, which could hinder our ability to implement our business plan.

***Employee misconduct could harm us by subjecting us to monetary loss, significant legal liability, regulatory scrutiny, and reputational harm.***

Our reputation is critical to maintaining and developing relationships with our existing and potential customers and third parties with whom we do business. There is a risk that our employees could engage in misconduct that adversely affects our business. For example, if an employee were to engage - or be accused of engaging - in illegal or suspicious activities including fraud or theft, we could suffer direct losses from the activity, and in addition we could be subject to regulatory sanctions and suffer serious harm to our reputation, financial condition, customer relationships, and ability to attract future customers or employees. Employee misconduct could prompt regulators to allege or to determine based upon such misconduct that we have not established adequate supervisory systems and procedures to inform employees of applicable rules or to detect and deter violations of such rules. It is not always possible to deter employee misconduct, and the precautions we take to detect and prevent misconduct may not be effective in all cases. Misconduct by our employees, or even unsubstantiated allegations of misconduct, could result in a material adverse effect on our reputation and our business.

***A failure in, or breach of, our operational or security systems or infrastructure, or those of our third-party vendors, including as a result of cyber-attacks, could disrupt our business, result in the disclosure or misuse of confidential or proprietary information, damage our reputation, increase our costs, and cause losses.***

We rely heavily on communications and information systems to conduct our business. Information security risks for our business have generally increased in recent years in part because of the proliferation of new technologies; the use of the Internet and telecommunications technologies to process, transmit, and store electronic information, including the management and support of a variety of business processes, including financial transactions and records, personally identifiable information, and customer and investor data; and the increased sophistication and activities of organized crime, hackers, terrorists, activists, and other external parties. As customer, public, and regulatory expectations regarding operational and information security have increased, our operating systems and infrastructure must continue to be safeguarded and monitored for potential failures, disruptions, and breakdowns. Certain of our software and technology systems have been developed internally and may be vulnerable to unauthorized access or disclosure. Our business, financial, accounting, and data processing systems, or other operating systems and facilities, may stop operating properly or become disabled or damaged as a result of a number of factors, including events that are wholly or partially beyond our control. For example, there could be electrical or telecommunication outages; natural disasters such as earthquakes, tornadoes, and hurricanes; disease pandemics; events arising from local or larger scale political or social matters, including terrorist acts; and, as described below, cyber-attacks.

Our business relies on its digital technologies, computer and email systems, software, and networks to conduct its operations. Although we have information security procedures and controls in place, our technologies, systems, and networks and, because the nature of our business involves the receipt and retention of personal information about our customers, our customers' personal accounts may become the target of cyber-attacks or information security breaches that could result in the unauthorized release, gathering, monitoring, misuse, loss, or destruction of our customers', or other third parties' confidential information. Third parties with whom we do business or who facilitate our business activities, including intermediaries or vendors that provide service or security solutions for our operations, and other third parties, could also be sources of operational and information security risk to us, including from breakdowns or failures of their own systems or capacity constraints. In addition, hardware, software, or applications we develop or procure from third parties may contain defects in design or manufacture or other problems that could unexpectedly compromise information security.

While we have disaster recovery and other policies and procedures designed to prevent or limit the effect of the failure, interruption, or security breach of our information systems, there can be no assurance that any such failures, interruptions, or security breaches will not occur or, if they do occur, that they will be adequately addressed. Our risk and exposure to these matters remain heightened because of the evolving nature of these threats. As a result, cyber security and the continued development and enhancement of our controls, processes, and practices designed to protect our systems, computers, software, data, and networks from attack, damage, or unauthorized access remain a focus for us. As threats continue to evolve, we may be required to expend additional resources to continue to modify or enhance our protective measures or to investigate and remediate information security vulnerabilities. Disruptions or failures in the physical infrastructure or operating systems that support our business and customers, or cyber-attacks or security breaches of the networks or systems, could result in regulatory fines, penalties or intervention, reputation damage, reimbursement or other compensation costs, and/or additional compliance costs, any of which could have a material effect on our results of operations or financial condition. Furthermore, if such attacks are not detected immediately, their effect could be compounded.

***We are susceptible to customer fraud, which could cause us to suffer losses on our loan portfolio.***

Because most of our customers do not publicly report their financial condition and therefore typically are not required to be audited on a regular basis, we are susceptible to a customer's fraud, which could cause us to suffer losses on our loan portfolio. The failure of a customer to accurately report its financial position, compliance with loan covenants, or eligibility for additional borrowings could result in our providing loans that do not meet our underwriting criteria, defaults in loan payments, and the loss of some or all of the principal of a particular loan or loans. Customer fraud can come in other forms, including but not limited to fraudulent invoices for work done, appraisal fraud, and fraud related to inspections done by third parties.

***We have entered into loan purchase and sale agreements with third parties to sell them portions of some of our loans. This increases our leverage. While the agreements are intended to increase our profitability, large loan losses and/or idle cash could actually reduce our profitability, which could impair our ability to pay principal and/or interest on the Notes.***

The loan purchase and sale agreements we entered into have allowed us to increase our loan assets and debt. If loans that we create have significant losses, the benefit of larger balances can be outweighed by the additional loan losses. Also, while these transactions are booked as secured financing, they are not lines of credit. Accordingly, we will have increased our loan balances without increasing our lines of credit, which can cause a decrease in liquidity. One solution to this liquidity problem is having idle cash for liquidity, which then could reduce our profitability. If either of these problems is persistent and/or significant, our ability to pay interest and principal on our Notes may be impaired.

***Additional competition may decrease our profitability, which would adversely affect our ability to repay the Notes.***

We may experience increased competition for business from other companies and financial institutions that are willing to extend the same types of loans that we extend at lower interest rates and/or fees. These competitors also may have substantially greater resources, lower cost of funds, and a better-established market presence. If these companies increase their marketing efforts to our market niche of borrowers, or if additional competitors enter our markets, we may be forced to reduce our interest rates and fees in order to maintain or expand our market share. Any reduction in our interest rates, interest income, or fees could have an adverse impact on our profitability and our ability to repay the Notes.

***Our real estate loans are illiquid, which could restrict our ability to respond rapidly to changes in economic conditions.***

The real estate loans we currently hold and intend to extend are illiquid. As a result, our ability to sell under-performing loans in our portfolio or respond to changes in economic, financial, investment, and other conditions may be very limited. We cannot predict whether we will be able to sell any real estate loan for the price or on the terms set by us, or whether any price or other terms offered by a prospective purchaser would be acceptable to us. We also cannot predict the length of time needed to find a willing purchaser and to close the sale of a loan. The relative illiquidity of our loan assets may impair our ability to generate sufficient cash to make required interest and principal payments on the Notes.

***Our systems and procedures might be inadequate to handle our potential growth. Failure to successfully improve our systems and procedures would adversely affect our ability to repay the Notes.***

We may experience growth that could place a significant strain upon our operational systems and procedures. Initially, all of our computer systems used electronic spreadsheets and we utilized other methods that a small company would use. Over time, we added a loan document system which many banks use to produce closing documents for loans. In 2018, we replaced our previous electronic spreadsheet system for Notes investors with a proprietary system. In addition, in 2019, we replaced our loan asset tracking system with a new proprietary system. In 2021 we replaced our loan production systems with a new proprietary system. If any of these systems fail, it could have a material adverse effect on our business, financial condition, results of operations, and, ultimately, our ability to repay principal and interest on the Notes.

***If we do not meet the requirements to maintain effective internal controls over financial reporting, our ability to raise new capital will be harmed.***

If we do not maintain effective internal controls over our financial reporting in accordance with Section 404 of the Sarbanes-Oxley Act of 2002, then it could result in delaying future SEC filings or future offerings. If future SEC filings or future offerings are delayed, it could have an extreme negative impact on our cash flow causing us to default on our obligations, including on the Notes.

***We are subject to risk of significant losses on our loans because we do not require our borrowers to insure the title of their collateral for our loans.***

It is customary for lenders extending loans secured by real estate to require the borrower to provide title insurance with minimum coverage amounts set by the lender. We do not require most of our homebuilders to provide title insurance on their collateral for our loans to them. This represents an additional risk to us as the lender. The homebuilder may have a title problem which normally would be covered by insurance, but may result in a loss on the loan because insurance proceeds are not available.

***The collateral securing our real estate loans may not be sufficient to pay back the principal amount in the event of a default by the borrowers.***

In the event of default, our real estate loan investments are generally dependent entirely on the loan collateral to recover our investment. Our loan collateral consists primarily of a mortgage on the underlying property. In the event of a default, we may not be able to recover the premises promptly and the proceeds we receive upon sale of the property may be adversely affected by risks generally related to interests in real property, including changes in general or local economic conditions and/or specific industry segments, declines in real estate values, increases in interest rates, real estate tax rates and other operating expenses including energy costs, changes in governmental rules, regulations and fiscal policies (including environmental legislation), acts of God, and other factors which are beyond our or our borrowers' control. Current market conditions may reduce the proceeds we are able to receive in the event of a foreclosure on our collateral. Our remedies with respect to the loan collateral may not provide us with a recovery adequate to recover our investment.

***Our cost of funds is substantially higher than that of banks.***

Because we do not offer FDIC insurance, and because we want to grow our Notes Program faster than most banks want to grow their CD base, our Notes offer significantly higher rates than bank CDs. Our cost of funds is higher than banks' cost of funds due to, among other factors, the higher rate that we pay on our Notes and other sources of financing. This may make it more difficult for us to compete against banks when they rejoin our niche lending market in large numbers. This could result in losses which could impair or eliminate our ability to pay interest and principal on our outstanding Notes.

***We are subject to the general market risks associated with real estate construction and development.***

Our financial performance depends on the successful construction and/or development and sale of the homes and real estate parcels that serve as security for the loans we make to homebuilders and developers. As a result, we are subject to the general market risks of real estate construction and development, including weather conditions, the price and availability of materials used in construction of homes and development of lots, environmental liabilities and zoning laws, and numerous other factors that may materially and adversely affect the success of the projects.

***Our operations are not subject to the stringent banking regulatory requirements designed to protect investors, so repayment of Note holders' investments is completely dependent upon our successful operation of our business.***

Our operations are not subject to the stringent regulatory requirements imposed upon the operations of commercial banks, savings banks, and thrift institutions, and are not subject to periodic compliance examinations by federal or state banking regulators. For example, we will not be well diversified in our product risk, and we cannot benefit from government programs designed to protect regulated financial institutions. Therefore, an investment in our Notes does not have the regulatory protections that the holder of a demand account or a certificate of deposit at a bank does. The return on any Notes purchased by a Note holder is completely dependent upon our successful operations of our business. To the extent that we do not successfully operate our business, our ability to pay interest and principal on the Notes will be impaired.

***We are an "emerging growth company" under the federal securities laws and are subject to reduced public company reporting requirements.***

We are an "emerging growth company," as defined in the Jumpstart Our Business Startups Act, or the JOBS Act, and are eligible to take advantage of certain exemptions from, or reduced disclosure obligations relating to, various reporting requirements that are normally applicable to public companies.

We will remain an "emerging growth company" until the earliest of (1) the last day of the first fiscal year in which we have total annual gross revenues of \$1.07 billion or more, (2) the last day of the fiscal year following the fifth anniversary of the date of the first sale of our common equity securities pursuant to an effective registration statement, (3) the date on which we become a "large accelerated filer" as defined in Rule 12b-2 under the Exchange Act (which would occur if the market value of our common equity held by non-affiliates exceeds \$700 million, measured as of the last business day of our most recently completed second fiscal quarter, and we have been publicly reporting for at least 12 months), or (4) the date on which we have issued more than \$1 billion in non-convertible debt during the preceding three-year period. Under the JOBS Act, emerging growth companies are not required to (1) provide an auditor's attestation report on management's assessment of the effectiveness of internal control over financial reporting, pursuant to Section 404 of the Sarbanes-Oxley Act, (2) comply with new requirements adopted by the PCAOB which require mandatory audit firm rotation or a supplement to the auditor's report in which the auditor must provide additional information about the audit and the issuer's financial statements, (3) comply with new audit rules adopted by the PCAOB after April 5, 2012 (unless the SEC determines otherwise), (4) provide certain disclosures relating to executive compensation generally required for larger public companies, or (5) hold shareholder advisory votes on executive compensation.

Additionally, the JOBS Act provides that an "emerging growth company" may take advantage of an extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies. This means an "emerging growth company" can delay adopting certain accounting standards until such standards are otherwise applicable to private companies. However, we have elected to "opt out" of such extended transition period, and will therefore comply with new or revised accounting standards on the applicable dates on which the adoption of such standards is required for non-emerging growth companies. Section 107 of the JOBS Act provides that our decision to opt out of such extended transition period for compliance with new or revised accounting standards is irrevocable.

***We are required to devote resources to comply with various provisions of the Sarbanes-Oxley Act, including Section 404 relating to internal controls testing, and this may reduce the resources we have available to focus on our core business.***

Pursuant to Section 404 of the Sarbanes-Oxley Act and the related rules adopted by the SEC and the Public Company Accounting Oversight Board, or PCAOB, our management is required to report on the effectiveness of our internal controls over financial reporting. We may encounter problems or delays in completing any changes necessary to our internal controls over financial reporting. Among other things, we may not be able to conclude on an ongoing basis that we have effective internal controls over financial reporting in accordance with Section 404. Any failure to comply with the various requirements of the Sarbanes-Oxley Act may require significant management time and expenses and divert attention or resources away from our core business. In addition, we may encounter problems or delays in completing the implementation of any requested improvements provided by our independent registered public accounting firm.

***We are exposed to risk of environmental liabilities with respect to properties of which we take title. Any resulting environmental remediation expense may reduce our ability to repay the Notes.***

In the course of our business, we foreclose and take title to real estate that could be subject to environmental liabilities. We may be held liable to a governmental entity or to third parties for property damage, personal injury, investigation and clean-up costs incurred by these parties in connection with environmental contamination, or may be required to investigate or clean up hazardous or toxic substances or chemical release at any property. The costs associated with investigation or remediation activities could be substantial. In addition, as the owner or former owner of a contaminated site, we may be subject to common law claims by third parties based on damages and costs resulting from environmental contamination emanating from the property. If we ever become subject to significant environmental liabilities, our business, financial condition, liquidity, and results of operations could be materially and adversely affected.

#### **Risks Related to Conflicts of Interest**

***Our CEO (who is also on our board of managers) and Executive Vice President will face conflicts of interest as a result of the secured lines of credit made to us, which could result in actions that are not in the best interests of our Note holders.***

We have two lines of credit from Daniel M. Wallach (our CEO and chairman of the board of managers) and his affiliates, and one line of credit from William Myrick (our Executive Vice President). The first line of credit has a maximum principal borrowing amount of \$1,250,000 and is payable to Mr. Wallach and his wife, Joyce S. Wallach, as tenants by the entirety (the "Wallach LOC"). The second line of credit has a maximum principal borrowing amount of \$250,000 and is payable to the 2007 Daniel M. Wallach Legacy Trust (the "Wallach Trust LOC," and together with the Wallach LOC, the "Wallach Affiliate LOCs"). The third line of credit has a maximum principal borrowing amount of \$1,000,000 and is payable to Mr. Myrick (the "Myrick LOC"). As of December 31, 2021, there was no amount outstanding pursuant to the Wallach Trust LOC, with availability on that line of credit of \$250,000, there was no amount outstanding pursuant to the Wallach LOC, with remaining availability on that line of credit of \$1,250,000. As of December 31, 2021, the amount outstanding pursuant to the Myrick LOC was \$859,000 with availability on that line of credit of \$141,000. The interest rates on the Wallach Affiliate LOCs and the Myrick LOC generally equal the prime rate plus 3% and were 6.25% as of December 31, 2021. The Wallach Affiliate LOCs and the Myrick LOC are collateralized by a lien against all of our assets. The Notes are subordinated in right of payment to all secured debt, including these Wallach Affiliate LOCs and the Myrick LOC. Pursuant to the promissory note for each Wallach Affiliate LOCs and the Myrick LOC, the lenders have the option of funding any amount up to the face amount of the note, in the lender's sole and absolute discretion. Therefore, Mr. Wallach and Mr. Myrick will face conflicts of interest in deciding whether and when to exercise any rights pursuant to the Wallach Affiliate LOCs and Myrick LOC, respectively. If Mr. Wallach or Mr. Myrick exercise their rights to collect on their collateral upon a default by us, we could lose some or all of our assets, which could have a negative effect on our ability to repay the Notes.

***As a result of his large equity ownership in the Company, our CEO will face a conflict of interest in deciding the number of distributions to equity owners, which could result in actions that are not in the best interests of Note holders.***

As of December 31, 2021, our CEO (who is also on the board of managers) beneficially owned 80.7% of the common equity of the Company. He and his wife also own 36.0% the Series C cumulative preferred units outstanding as of December 31, 2021. Since the Company is taxed as a partnership for federal income tax purposes, all profits and losses flow through to the equity owners. Therefore, Mr. Wallach and his affiliated equity owners of the Company will be motivated to distribute profits to the equity owners on an annual basis, rather than retain earnings in the Company for Company purposes. There is currently no limit in the indenture or otherwise on the amount of funds that may be distributed by the Company to its equity owners. If substantial funds are distributed to the equity owners, the liquidity and capital resources of the Company will be reduced and our ability to repay the Notes may be negatively impacted.

***Some of our employees and managers may face conflicts of interest as a result of their and their relatives' investment in the Notes, which could result in actions that are not in your best interests.***

Employees, managers, members, and relatives of managers and members have invested in the Notes, in the aggregate amount of \$3,989,000 as of December 31, 2021. While investment in the Notes by our affiliates may align their interests with those of other Note holders, it could also create conflicts of interest by influencing those employees' or managers' actions during times of financial difficulties. For example, the fact that certain of our managers hold Notes, and the value of Notes they hold, could influence their decision to redeem Notes at a time or times when it would be prudent to use our cash resources to build capital, pay down other outstanding obligations, or grow our business. There may be other situations not presently foreseeable in which the ownership of Notes by related persons may create conflicts of interest. These conflicts of interest could result in action or inaction by management that is averse to other holders of the Notes.

***We have three lines of credit from affiliates which allow us to incur a significant amount of secured debt. These lines are collateralized by a lien against all of our assets. Our purchase and sale agreements function as secured debt as well. We expect to incur a significant amount of additional debt in the future, including issuance of the Notes, which will subject us to increased risk of loss.***

As of December 31, 2021, we had \$859,000 of secured debt outstanding on our senior debt lines of credit from affiliates of \$2,500,000 and the capacity to sell portions of many loans under the terms of our loan purchase and sale agreements. The affiliate loans are collateralized by a lien against all of our assets. The loan purchase and sale agreements and other secured debt are with third-parties and are collateralized by loans. In addition, we expect to incur a significant amount of additional debt in the future, including issuance of the Notes, borrowing under credit facilities and other arrangements. The Notes will be subordinated in right of payment to all secured debt, including the affiliate loans. Therefore, in the event of a default on the secured debt, affiliates of our Company, including Mr. Wallach, have the right to receive payment ahead of Note holders, as do other secured debt holders, such as the loan purchasers under the purchase and sale agreements. Accordingly, our business is subject to increased risk of a total loss of our Note holders' investments if we are unable to repay all of our secured debt.

#### **Risks Related to Liquidity**

***We depend on the availability of significant sources of credit to meet our liquidity needs and our failure to maintain these sources of credit could materially and adversely affect our liquidity in the future.***

We plan to maintain our loan purchase and sale agreements and our lines of credit from affiliates so that we may draw funds when necessary to meet our obligation to redeem maturing Notes, pay interest on the Notes, meet our commitments to lend money to our customers, and for other general corporate purposes. Certain features of the loan purchase and sale agreements with third parties have added liquidity and flexibility, which have lessened the need for the lines of credit from affiliates. If we fail to maintain liquidity through our loan purchase and sale agreements and lines of credit for any reason, including a potential negative impact to the credit markets as a result of an outbreak of a communicable illness such as COVID-19, we will be more dependent on the proceeds from the Notes for our continued liquidity. If the sale of the Notes is significantly reduced or delayed for any reason and we fail to obtain or renew a line of credit, or we default on any of our lines of credit, then our ability to meet our obligations, including our Note obligations, could be materially adversely affected, and we may not have enough cash to pay back Note holders' investments.

In addition, the borrowing capacity on two of our lines of credit is based on the amount outstanding on the underlying collateral loans. If we are unable to find suitable investment opportunities, we may not be able to replace the underlying collateral loans with new loans and, in such a situation, the borrowing capacity on those lines of credit would be reduced. Also, the failure to maintain an active line of credit (and therefore using cash for liquidity instead of a borrowing line) will reduce our earnings, because we will be paying interest on the Notes, while we are holding cash instead of reducing our borrowings.

***We have unfunded commitments to builders as of December 31, 2021. If every builder borrowed every amount allowed (which would mean all of their homes were complete) and no builders paid us back, we would need to fund that amount. While some of that amount would automatically come from our loan purchase and sale agreements, the rest would have to come from our Notes Program and/or our lines of credit. Therefore, we may not have the ability to fund our commitments to builders.***

As of December 31, 2021, we have \$22,902,000 of unfunded commitments to builders. If every builder borrowed every amount allowed and no builders repaid us then we would need to fund that amount. Lines of credit, loan purchase and sale agreements, payoffs from builders, and immediate investments in our Notes may not be enough to fund our commitments to builders as they become payable. If we default on these obligations, then we may face any one or more of the following: a higher default rate, lawsuits brought by customers, an eventual lack of business from borrowers, missed principal and interest payments to Note holders and holders of other debt, and a lack of desire for investors to invest in our Notes Program. Therefore, we could default on our repayment obligations to our Note holders.

***We have two secured lines of credit which expire in 2022, and the unsecured portion of a line of credit which also expires in 2022. Failure of those lines to renew could strain our ability to pay other obligations.***

We have a \$1,325,000 line of credit (the "Shuman LOC"). As of December 31, 2021, the amount outstanding under the Shuman LOC was \$125,000 which is due in July 2022. We do not know whether the Shuman LOC will be renewed. We also have a \$7,000,000 line of credit (the "Swanson LOC"), a portion of which is unsecured (the "Unsecured Swanson LOC"). The balances on the Swanson LOC that were secured and unsecured as of December 31, 2021 were \$6,841,000 and \$159,000 respectively. Both the secured and unsecured portions of the Swanson LOC are due in July 2022. We do not know whether the Swanson LOC will be renewed. If we are unable to renegotiate or extend these lines of credit, then we may default on one or both of those lines of credit. Therefore, we could default on repayment obligations to some of our debt holders, including our Note holders.

***We have a significant amount of debt and expect to incur a significant amount of additional debt in the future, including issuance of the Notes, which will subject us to increased risk of loss. Our present and future senior debt may make it difficult to repay the Notes.***

We have a significant amount of debt and expect to incur a significant amount of additional debt in the future. As of December 31, 2021, we have approximately \$47,729,000 of debt, net of deferred financing costs. Our primary sources of debt include our lines of credit, loan purchase and sale agreements, and the Notes. As of December 31, 2021, we have a total outstanding balance of \$9,876,000 on our lines of credit and approximately \$8,469,000 on our loan purchase and sale agreements. We also have the capacity to sell portions of many loans under the terms of our loan purchase and sale agreements. The loan purchase and sale agreements and other secured debt are with third parties and all but one of the lines of credit are collateralized by loans that we have issued to builders. The Notes are subordinate and junior in priority to any and all of our senior debt and senior subordinated debt, and equal to any and all non-senior debt, including other Notes. There are no restrictions in the indenture regarding the amount of senior debt or other indebtedness that we may incur. As of December 31, 2021, we had approximately \$7,074,000 in Notes coming due by December 2022, and we cannot be certain whether we will be able to fund those Notes upon maturity. Upon the maturity of our senior debt, by lapse of time, acceleration or otherwise, the holders of our senior debt have first right to receive payment, in full, prior to any payments being made to a Note holder or to other non-senior debt. Therefore, upon such maturity of our senior debt Note holders would only be repaid in full if the senior debt is satisfied first and, following satisfaction of the senior debt, if there is an amount sufficient to fully satisfy all amounts owed under the Notes and any other non-senior debt.

In addition, we expect to incur a significant amount of additional debt in the future, including issuance of the Notes, borrowing under credit facilities, and other arrangements. The Notes will be subordinated in right of payment to all secured debt, including the Wallach Affiliate LOCs, Myrick LOC, loan purchase and sale agreements, the senior subordinated note discussed in the prior paragraph, and the line of credit discussed in the prior paragraph. Therefore, in the event of a default on the secured debt, affiliates of our Company, including Mr. Wallach, have the right to receive payment ahead of Note holders, as do other secured debt holders, such as the loan purchasers under the loan purchase and sale agreements. Accordingly, our business is subject to increased risk of a total loss of a Noteholder's investment if we are unable to repay all of our secured debt.

***If the proceeds from the issuance of the Notes exceed the cash flow needed to fund the desirable business opportunities that are identified, we may not be able to invest all of the funds in a manner that generates sufficient income to pay the interest and principal on the Notes.***

Our ability to pay interest on our debt, including the Notes, pay our expenses, and cover loan losses is dependent upon interest and fee income we receive from loans extended to our customers. If we are not able to lend to a sufficient number of customers at high enough interest rates, we may not have enough interest and fee income to meet our obligations, which could impair our ability to pay interest and principal on the Notes. If money brought in from new Notes and from repayments of loans from our customers exceeds our short-term obligations such as expenses, Notes interest and redemptions, and line of credit principal and interest, then it is likely to be held as cash, which will have a lower return than the interest rate we are paying on the Notes. This will lower earnings and may cause losses which could impair our ability to repay the principal and interest on the Notes.

***The indenture does not contain the type of covenants restricting our actions, such as restrictions on creating senior debt, paying distributions to our owners, merging, recapitalizing, and/or entering into highly leveraged transactions. The indenture does not contain provisions requiring early payment of Notes in the event we suffer a material adverse change in our business or fail to meet certain financial standards. Therefore, the indenture provides very little protection of Note holders' investments.***

The Notes do not have the benefit of extensive covenants. The covenants in the indenture are not designed to protect Note holders' investments if there is a material adverse change in our consolidated financial condition, results of operations, or cash flows. For example, the indenture does not contain any restrictions on our ability to create or incur senior debt or other debt to pay distributions to our equity holders, including our Chief Executive Officer and our Executive Vice President. It also does not contain any financial covenants (such as a fixed charge coverage or a minimum amount of equity) to help ensure our ability to pay interest and principal on the Notes. The indenture does not contain provisions that permit Note holders to require that we redeem the Notes if there is a takeover, recapitalization or similar restructuring. In addition, the indenture does not contain covenants specifically designed to protect Note holders if we engage in a highly leveraged transaction. Therefore, the indenture provides very little protection of Note holders' investments.

***Payment on the Notes is subordinate to the payment of our outstanding present and future senior debt, if any. Since there is no limit to the amount of senior debt we may incur, our present and future senior debt may make it difficult to repay the Notes.***

Our loan purchase and sale agreements and secured lines of credit with third-parties also function as senior debt. The balance on those loan purchase and sale agreements and other secured debt, net of deferred financing costs was \$20,016,000 on December 31, 2021, and is expected to grow in the future. In addition, we have \$1,250,000 in senior unsecured lines of credits which were fully drawn as of December 31, 2021. We also have senior subordinated notes which are senior to the Notes of \$1,054,000 as of December 31, 2021. The Notes are subordinate and junior in priority to any and all of our senior debt and senior subordinated debt, and equal to any and all non-senior debt, including other Notes. The Notes are senior to junior subordinated notes. There are no restrictions in the indenture regarding the amount of senior debt or other indebtedness that we may incur. Upon the maturity of our senior debt, by lapse of time, acceleration or otherwise, the holders of our senior debt have first right to receive payment, in full, prior to any payments being made to a Note holder or to other non-senior debt. Therefore, upon such maturity of our senior debt Note holders would only be repaid in full if the senior debt is satisfied first and, following satisfaction of the senior debt, if there is an amount sufficient to fully satisfy all amounts owed under the Notes and any other non-senior debt.

***Additional competition for investment dollars may decrease our liquidity, which would adversely affect our ability to repay the Notes.***

We could experience increased competition for investment dollars from other companies and financial institutions that are willing to offer higher interest rates. We may be forced to increase our interest rates in order to maintain or increase the issuance of Notes. Any increase in our interest rates could have an adverse impact on our liquidity and our ability to meet a debt covenant under any future lines of credit obtained and/or to repay the Notes.



***If we are unable to meet our Note maturity and redemption obligations, and we are unable to obtain additional financing or other sources of capital, we may be forced to sell off our operating assets or we might be forced to cease our operations, and Note holders could lose some or all of their investment.***

Our Notes have maturities ranging from one year to four years. In addition, holders of our Notes may request redemption upon death and we would be obligated to fulfill such redemption request. Holders of a 36-month Note issued on or after February 4, 2020 may request redemption at any time and, subject to certain limitations, we would be obligated to fulfill such redemption request. We intend to pay our Note maturity and redemption obligations using our normal cash sources, such as collections on our loans to customers, as well as proceeds from the Notes Program. We may experience periods in which our Note maturity and redemption obligations are high. Since our loans are generally repaid when our borrower sells a real estate asset, our operations and other sources of funds may not provide sufficient available cash flow to meet our continued Note maturity and redemption obligations. While we have secured lines of credit from affiliates of up to \$2,500,000 with \$859,000 borrowed as of December 31, 2021, our affiliates are not obligated to fund our borrowing requests. For all of these reasons we may be substantially reliant upon the net offering proceeds we receive from the Notes Program to pay these obligations. If we are unable to repay or redeem the principal amount of the Notes when due, and we are unable to obtain additional financing or other sources of capital, we may be forced to sell off our operating assets or we might be forced to cease our operations, and Note holders could lose some or all of their investment.

***There is no “early warning” on the Notes if we perform poorly. Only interest and principal payment defaults on the Notes can trigger a default on the Notes prior to a bankruptcy.***

There are a limited number of performance covenants to be maintained under the Notes and/or the indenture. Therefore, no “early warning” of a possible default by us exists. Under the indenture, only (i) the non-payment of interest and/or principal on the Notes by us when payments are due, (ii) our bankruptcy or insolvency, or (iii) a failure to comply with provisions of the Notes or the indenture (if such failure is not cured or waived within 60 days after receipt of a specific notice) could cause a default to occur.

***Note holders do not have the opportunity to evaluate our investments before they are made.***

We intend to use the net offering proceeds in accordance with the “Use of Proceeds” section of our prospectus, including investment in secured real estate loans for the acquisition and development of parcels of real property as single-family residential lots and/or the construction of single-family homes. Since we have not identified any investments that we will make with the net proceeds of this offering, we are generally unable to provide Note holders with information to evaluate the potential investments we may make with the net offering proceeds before purchasing the Notes. Note holders must rely on our management to evaluate our investment opportunities, and we are subject to the risk that our management may not be able to achieve our objectives, may make unwise decisions, or may make decisions that are not in our best interest.

***A portion of our collateral securing the Pennsylvania Loans is preferred equity in our Company. In the event of a foreclosure on the properties securing the Pennsylvania Loans, a portion of our collateral is preferred equity in our Company, it would be difficult to sell the preferred equity in order to reduce the loan balance.***

Some of the collateral securing the Pennsylvania Loans is preferred equity in our Company, which has a book value of \$1,720,000 as of December 31, 2021. If the borrower defaults on any of the Pennsylvania Loans and we are forced to use collateral to repay any of the Pennsylvania Loans, we will need to sell this preferred interest in us to a third party. There is no liquid market for this instrument, so we can give no assurance as to our ability to generate any amount of proceeds from that collateral.

***Because we require a substantial amount of cash to service our debt, we may not be able to pay our obligations under the Notes.***

To service our total indebtedness, we require a significant amount of cash. Our ability to generate cash depends on many factors, including our successful financial and operating performance. We cannot assure Note holders that our business plans will succeed or that we will achieve our anticipated financial results, which may prevent us from being able to pay our obligations under the Notes.

***The indenture and terms of our Notes do not restrict our use of leverage. A relatively small loss can cause over leveraged companies to suffer a material adverse change in their financial position. If this happened to us, it may make it difficult to repay the Notes.***

Financial institutions which are federally insured typically have 8-12% of their total assets in equity. A reduction in their loan assets due to losses of 2% reduces their equity by roughly 20%. We had 14% and 11% of our loan assets in equity as of December 31, 2021 and 2020, respectively. If we allow our assets to increase without increasing our equity, we could have a much lower equity as a percentage of assets than we have today, which would increase our risk of nonpayment on the Notes. Note holders have no structural mechanism to protect them from this action, and rely solely on us to keep equity at a satisfactory ratio.

***We expect to be substantially reliant upon the net offering proceeds we receive from the sale of our Notes to meet principal and interest obligations on previously issued Notes.***

We intend to use the net offering proceeds from the sale of Notes to, among other things, make payments on other borrowings, fund redemption obligations, make interest payments on the Notes, and to run our business to the extent that other sources of liquidity from our operations (e.g., repayment of loans we have previously extended to our customers) and our credit lines are inadequate. However, these other sources of liquidity are subject to risks. Our operations alone may not produce a sufficient return on investment to repay interest and principal on our outstanding Notes. We may not be able to obtain an additional line of credit when needed or retain one or more of our existing lines of credit. We may not be able to attract new investors, have sufficient loan repayments, or have sufficient borrowing capacity when we need additional funds to repay principal and interest on our outstanding Notes or redeem our outstanding Notes. If any of these things occur, our liquidity and capital needs may be severely affected, and we may be forced to sell off our loan receivables and other operating assets, or we may be forced to cease our operations.

***If we default in our Note payment obligations, the indenture agreements provide that the trustee could accelerate all payments due under the Notes, which would further negatively affect our consolidated financial position and cash flows.***

Our obligations with respect to the Notes are governed by the terms of indenture agreements with U.S. Bank Trust Company, National Association as trustee. Under the indentures, in addition to other possible events of default, if we fail to make a payment of principal or interest under any Note and this failure is not cured within 30 days, then we will be deemed in default. Upon such a default, the trustee or holders of 25% in principal of the outstanding Notes could declare all principal and accrued interest immediately due and payable. If our total assets do not cover these payment obligations, then we would most likely be unable to make all payments under the Notes when due, and we might be forced to cease our operations.

***There is no sinking fund to ensure repayment of the Notes at maturity, so Note holders are totally reliant upon our ability to generate adequate cash flows.***

We do not contribute funds to a separate account, commonly known as a sinking fund, to repay the Notes upon maturity. Because funds are not set aside periodically for the repayment of the Notes over their respective terms, Note holders must rely on our consolidated cash flows from operations, investing and financing activities and other sources of financing for repayment, such as funds from sale of the Notes, loan repayments, and other borrowings. To the extent cash flows from operations and other sources are not sufficient to repay the Notes, Note holders may lose all or part of their investment.

***If we have a large number of repayments on the Notes, whether because of maturity or redemption, we may be unable to make such repayments.***

We are obligated to redeem a Note without any interest penalty (i) upon the death of an investor, if requested by the executor or administrator of the investor's estate (or if the Note is held jointly, by the surviving joint investor), and (ii) subject to certain limitations, upon request by an investor holding a 36-month Note issued on or after February 4, 2020. Such redemption requests are not subject to our consent but are subject to restrictions in the indenture. We may be faced with a large number of such redemption requests at one time. We are also required to repay all of the Notes upon their maturity. If the amounts of those repayments are too high, and we cannot offset them with loan repayments, secure new financing, or issue additional Notes, we may not have the liquidity to repay the investments.

***Increases in interest rates would increase the amount of debt payments under the Wallach Affiliate LOCs which could impair our ability to repay the principal and interest on the Notes.***

The interest rate under the Wallach Affiliate LOCs and Myrick LOC is generally equal to the prime rate plus three percent. Increases in interest rates will increase the applicable prime rate and therefore, the interest rate under the Wallach Affiliate LOCs and the Myrick LOC will increase. An increase in the interest rate would increase the amount of debt payments under the Wallach Affiliate LOCs which would reduce our cash flows and could impair our ability to repay the principal and interest on the Notes.

***We incurred indebtedness secured by our office property, which may result in foreclosure.***

The debt incurred by us in connection with our office property is secured by a mortgage. If we default on our secured indebtedness, the lender may foreclose and the entire investment in the office property could be lost, which could adversely affect our ability to repay the principal and interest on the Notes.

#### **ITEM 1B. UNRESOLVED STAFF COMMENTS**

Not applicable.

#### **ITEM 2. PROPERTIES**

As of December 31, 2021, we operate an office in Jacksonville, Florida, which we own. We entered into a mortgage on our office building for \$660,000 in January 2018 after a majority of the construction was completed. As of December 31, 2021, our mortgage payable balance was \$604,000.

#### **ITEM 3. LEGAL PROCEEDINGS**

- (a) As of the date of this filing, we are not aware that we or our members are a party to any pending or threatened legal proceeding or proceeding by a governmental authority that would have a material adverse effect on our business.
- (b) None.

#### **ITEM 4. MINE SAFETY DISCLOSURES**

Not applicable.

### **PART II**

#### **ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCK HOLDER MATTERS, AND ISSUER PURCHASES OF EQUITY SECURITIES**

**(All dollar [\$] amounts shown in thousands.)**

##### **(a) Common Equity**

As of December 31, 2021, we had 2,629 Class A common membership units ("Class A Common Units") outstanding, held by our eight members. There is no established public trading market for our Class A Common Units. As of December 31, 2021, 80.7% of our outstanding Class A Common Units are beneficially owned by our CEO (who is also on our board of managers), Daniel M. Wallach, and his wife, Joyce S. Wallach.

##### **Preferred Equity**

###### ***Series B Preferred Units***

We previously entered into an agreement with the Hoskins Group (consisting of Benjamin Marcus Homes, LLC, Investor's Mark Acquisitions, LLC, and Mark L. Hoskins) pursuant to which we sell the Hoskins Group 0.1 Series B cumulative preferred units ("Series B Preferred Units") upon the closing of certain lots. During the year ended December 31, 2021, we issued 0.9 Series B Preferred Units to the Hoskins Group for \$90.

There is no established public trading market for our Series B Preferred Units. The Series B Preferred Units are redeemable by the Company at any time. The Series B Preferred Units have a fixed value which is their purchase price, and preferred liquidation and distribution rights. Yearly distributions of 10% of the Series B Preferred Units' value (provided profits are available) will generally be made quarterly. The Hoskins Group's Series B Preferred Units are also used as collateral for that group's loans to the Company.

The transactions in Series B Preferred Units described above were effected in private transactions exempt from the registration requirements of the Securities Act under Section 4(a)(2) of the Securities Act. The transactions described above did not involve any public offering, were made without general solicitation or advertising, and the buyer represented to us that it is an “accredited investor” within the meaning of Rule 501 of Regulation D promulgated under the Securities Act, with access to all relevant information necessary to evaluate the investment in the Series B Preferred Units.

### ***Series C Preferred Units***

As of December 31, 2021, we had 50.14 Series C cumulative preferred units (“Series C Preferred Units”) outstanding, held by 14 investors. There is no established public trading market for our Series C Preferred Units. As of December 31, 2021, 36.0% of our outstanding Series C Preferred Units are beneficially owned by our CEO (who is also on our board of managers), Daniel M. Wallach, and his wife, Joyce S. Wallach.

Investors in the Series C Preferred Units may elect to reinvest their distributions in additional Series C Preferred Units (the “Series C Reinvestment Program”). Pursuant to the Series C Reinvestment Program, we issued the following Series C Preferred Units during the quarter ended December 31, 2021:

<b>Recipient</b>	<b>Units Issued</b>	<b>Distribution Proceeds</b>
Daniel M. Wallach and Joyce S. Wallach	0.5307016	\$ 53,070.16
Gregory L. Sheldon and Madeline M. Sheldon	0.1586946	15,869.46
BLDR Holdings, LLC	0.1716979	17,169.79
Schultz Family Revocable Living Trust	0.0427120	4,271.20
Fernando Ascencio and Lorraine Carol Ascencio	0.0799143	7,991.43
Mark and Tris Ann Garboski	0.1608256	16,082.56
<b>Total</b>	<b>1.1445460</b>	<b>\$ 114,454.60</b>

The proceeds received from the sales of the Series C Preferred Units discussed above were used for the funding of construction loans. The transactions in Series C Preferred Units described above were effected in private transactions exempt from the registration requirements of the Securities Act under Section 4(a)(2) of the Securities Act. The transactions described above did not involve any public offering, were made without general solicitation or advertising, and the buyer represented to us that they were an “accredited investor” within the meaning of Rule 501 of Regulation D promulgated under the Securities Act, with access to all relevant information necessary to evaluate the investment in the Series C Preferred Units.

(b) **Notes Program**

We registered up to \$70,000,000 in Fixed Rate Subordinated Notes in our public offering (SEC File No. 333-224557, effective March 22, 2019). As of December 31, 2021, we had issued a gross amount of \$35,610,000 in Notes pursuant to our public offering. From March 23, 2019 through December 31, 2021, we incurred expenses of \$604,000 in connection with the issuance and distribution of the Notes, which were paid to third parties. These expenses were not for underwriters or discounts, but were for advertising, printing, and professional services. Net offering proceeds as of December 31, 2021 were \$35,006,000 and primarily used to increase loan balances.

(c) **None.**

## **ITEM 6. [RESERVED]**

## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

(All dollar [\$] amounts shown in thousands.)

The following Management's Discussion and Analysis of Financial Condition and Results of Operations should be read in conjunction with our consolidated financial statements and the notes thereto contained elsewhere in this report. See also "Cautionary Note Regarding Forward-Looking Statements" preceding Part I.

### Overview

We were organized in the Commonwealth of Pennsylvania in 2007 under the name 84 RE Partners, LLC and changed our name to Shepherd's Finance, LLC on December 2, 2011. We converted to a Delaware limited liability company on March 29, 2012. Our business is focused on commercial lending to participants in the residential construction and development industry. We believe this market is underserved because of the lack of traditional lenders currently participating in the market. We are located in Jacksonville, Florida. Our operations are governed pursuant to our limited liability company agreement.

The commercial loans we extend are secured by mortgages on the underlying real estate. We extend and service commercial loans to small-to-medium sized homebuilders for the purchase of lots and/or the construction of homes thereon. In some circumstances, the lot is purchased with an older home on the lot which is then either removed or rehabilitated. If the home is rehabilitated, the loan is referred to as a "rehab" loan. We also extend and service loans for the purchase of lots and undeveloped land and the development of that land into residential building lots. In addition, we may, depending on our cash position and the opportunities available to us, do none, any or all of the following: purchase defaulted unsecured debt from suppliers to homebuilders at a discount (and then secure that debt with real estate or other collateral), purchase defaulted secured debt from financial institutions at a discount, and purchase real estate in which we will operate our business.

### *Economic and Industry Dynamics*

During 2021, the Company continued to focus on specific issues that arose in 2020 primarily due to the pandemic, one of which was the reduction of non-interest earning assets. As of December 31, 2021, loans classified as non-accrual were 23 or \$9,526 compared to 29 or \$11,816 for the same period in the prior year. In addition, as of December 31, 2021 we had 5 foreclosed assets or \$2,724 compared to 17 and \$4,449 for the same period of the prior year.

The Company continues to lose interest income on assets that do not accrue interest. During the year ended December 31, 2021 the estimated loss on interest income related to impaired and foreclosed assets was \$1,715. Looking ahead, we expect this to decrease as we continue to sell our remaining foreclosed assets in 2022.

While the Company continues to face COVID-19 risks as it relates to the economy and the homebuilding industry, management made the decision that during 2022 we will focus on the following five areas:

1. Decrease the amount of non-interest-bearing assets, which includes cash, our foreclosed assets and classified non-accrual loans or impaired loans receivables;
2. Increase loan originations which were lower during the year ended December 31, 2020 due primarily to COVID-19;
3. Maintain liquidity to fund new loan originations and for the completion of construction costs for existing loans;
4. Lowering our cost of funds (to keep us competitive in the market); and
5. Raising our margin beyond simply eliminating nonperforming assets.

We anticipate that for 2022, the housing market in most of the areas in which we do business will be strong despite the impact of COVID-19. We also anticipate that the losses we incurred in principal related to COVID-19 will not continue, and that the lack of interest due to non-performing assets from COVID-19 will decrease significantly in 2022. Short term interest rates as well as mortgage interest rates are expected to rise. A rise in short term rates is likely to benefit the company as our competitors' rates will rise faster than ours making us more competitive, but a rise in long term interest rates may negatively impact the housing industry as a whole, and therefore us.

### *Perceived Challenges and Anticipated Responses*

The following is not intended to represent a comprehensive list or description of the risks or challenges facing the Company. Currently, our management is most focused on the following challenges along with the corresponding actions to address those challenges:

<b>Perceived Challenges and Risks</b>	<b>Anticipated Management Actions/Response</b>
Potential loan value-to-collateral value issues (i.e., being underwater on particular loans)	We manage this challenge by risk-rating both the geographic region and the builder, and then adjusting the loan-to-value (i.e., the loan amount versus the value of the collateral) based on risk assessments. Additionally, we collect a deposit up-front for construction loans. Despite these efforts, if values in a particular area of the country drop by 60%, we will have loaned more than the value of the collateral. We have found that the best solution to this risk is a speedy resolution of the loan, and helping the builder finish the home rapidly rather than foreclosing on the partially built home. Our experience in this area will help us limit, but not eliminate, the negative effects in the event of another economic downturn.
Concentration of loan portfolio (i.e., how many of the loans are of or with any particular type, customer, or geography)	As of December 31, 2021 and 2020, 26% and 29%, respectively, of our outstanding loan commitments consist of loans to one borrower, and the collateral is in one real estate market, Pittsburgh, Pennsylvania. Accordingly, the ultimate collectability of a significant portion of these loans is susceptible to changes in market conditions in that area. As of December 31, 2021, our next two largest customers make up 7% and 4% of our loan commitments, with loans in Orlando, Florida and Spokane, Washington, respectively. As of December 31, 2020, our next two largest customers made up 12% and 6% of our loan commitments, with loans in Orlando and Cape Coral, Florida, respectively. In the upcoming years, we plan on continuing to increase our geographic and builder diversity while continuing to focus on our residential homebuilder customers.
Not having funds available to us to service the commitments we have	As of December 31, 2021, our typical construction loan had about 65% of its loan amount outstanding on average. That means that on average, about 35% of the commitment is not loaned, usually because the house is not complete. As of December 31, 2021, unfunded commitments totaled \$22,902, which we will fund along with our purchase and sale agreement participants. However, if we are short on cash, we could do the following: <ul style="list-style-type: none"> <li>● raise interest rates on the Notes we offer to our investors to attract new Note investments;</li> <li>● sell more secured interest on our loans; or</li> <li>● draw down on our lines of credit from our affiliates.</li> </ul>
Nonpayment of interest by our customers	Most of our customers pay interest on a monthly basis, and these funds are used to, among other things, pay interest on our debt monthly. While we have the liquidity to withstand some nonpayment of interest, if a high percentage of our customers were not paying interest, it will impede our ability to pay our debts on time.
Nonperforming assets	As of December 31, 2021, nonperforming assets were approximately \$10,425 (defined as impaired loans and/or loans on nonaccrual plus foreclosed assets net of reserves).

## Critical Accounting Estimates

To assist in evaluating our consolidated financial statements, we describe below the critical accounting estimates that we use. We consider an accounting estimate to be critical if: (1) the accounting estimate requires us to make assumptions about matters that were highly uncertain at the time the accounting estimate was made, and (2) changes in the estimate that are reasonably likely to occur from period to period, or use of different estimates that we reasonably could have used, would have a material impact on our consolidated financial condition or results of operations.

### *Loan Losses*

Future losses on current loans are estimated in our financial statements. This estimate is important because it is on our largest asset (loans receivable). It is impossible to know what these losses will be, as the condition of the market cannot be determined, and specific situations with each loan are unpredictable and change constantly. Loan losses, as applicable, are accounted for both on the consolidated balance sheets and the consolidated statements of operations. On the consolidated statements of operations, management estimates the number of losses to capture during the current year. This current period amount incurred is referred to as the loan loss provision. The calculation of our allowance for loan losses, which appears on our consolidated balance sheets as a reduction to Loans receivable, net and is detailed in the notes to our financial statements, requires us to compile relevant data for use in a systematic approach to assess and estimate the number of probable losses inherent in our commercial lending operations and to reflect that estimated risk in our allowance calculations. We use the policy summarized as follows:

We establish a collective reserve for all loans which are not more than 60 days past due at the end of each quarter. This collective reserve includes both a quantitative and qualitative analysis. In addition to historical loss information, the analysis incorporates collateral value, decisions made by management and staff, percentage of aging spec loans, policies, procedures, and economic conditions.

We individually analyze for impairment all loans which are more than 60 days past due at the end of each quarter. We also review for impairment all loans to one borrower with greater than or equal to 10% of our total committed balances. If required, the analysis includes a comparison of estimated collateral value to the principal amount of the loan.

For impaired loans, if the value determined is less than the principal amount due (less any builder deposit), then the difference is included in the allowance for loan loss. As values change, estimated loan losses may be provided for more or less than the previous period, and some loans may not need a loss provision based on payment history. For homes which are partially complete, we appraise on an as-is and completed basis and use the one that more closely aligns with our planned method of disposal for the property.

For loans greater than 12 months in age that are individually evaluated for impairment, appraisals have been prepared within the last 13 months if construction is greater than 90% complete. If construction is less than 90% complete the Company uses the latest appraisal on file. Certain times the Company may choose to use a broker's opinions of value ("BOV") as a replacement for an appraisal if deemed more efficient by management. Appraised values are adjusted down for estimated costs associated with asset disposal. Broker's opinion of selling price, use currently valid sales contracts on the subject property, or representative recent actual closings by the builder on similar properties may be used in place of a broker's opinion of value.

Appraisers are state certified, and are selected by first attempting to utilize the appraiser who completed the original appraisal report. If that appraiser is unavailable or unreasonably expensive, we use another appraiser who appraises routinely in that geographic area. BOVs are created by real estate agents. We try to first select an agent we have worked with, and then, if that fails, we select another agent who works in that geographic area.

Currently, fair value of collateral has the potential to impact the calculation of the loan loss provision. Specifically, relevant to the allowance for loan loss reserve is the fair value of the underlying collateral supporting the outstanding loan balances. Fair value measurements are an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. Due to a rapidly changing economic market, an erratic housing market, the various methods that could be used to develop fair value estimates, and the various assumptions that could be used, determining the collateral's fair value requires significant judgment.

	<b>December 31, 2021 Loan Loss Provision Higher/(Lower)</b>
<b>Change in Fair Value Assumption</b>	
Increasing fair value of the real estate collateral by 35%*	\$ –
Decreasing fair value of the real estate collateral by 35%**	\$ 2,828

\* Increases in the fair value of the real estate collateral do not impact the loan loss provision, as the value generally is not “written up.”

\*\* If the loans were nonperforming, assuming a book amount of the loans outstanding of \$46,943, and the fair value of the real estate collateral on all outstanding loans was reduced by 35%.

### ***Foreclosed Assets***

Foreclosed assets, as applicable, are accounted for both on the consolidated balance sheets and the consolidated statements of operations. On the consolidated statements of operations, management estimates the amount of impairment to capture when a loan is converted to a foreclosed asset, the impairment when the value of an asset drops below the carrying amount, and any loss or gain upon final disposition of the asset. The calculation of the impairment, which appears on our consolidated balance sheets as a reduction in the asset, requires us to compile relevant data for use in a systematic approach to assess and estimate the value of the asset and therefore any required impairment thereof. We use the policy summarized as follows:

For properties which exist in the condition in which we intend to sell them, we obtain an appraisal of the assets current value. We reduce the appraised value by 10% to account for estimated selling costs. This amount is used to initially book the asset. Typically, prior to the initial booking of the foreclosed asset, the loan has already been reserved to this level. If during ownership, the value of the foreclosed asset drops, an additional impairment is recorded. For assets that need to be improved prior to sale, we adjust the portion of the appraised value related to construction improvements for the percentage of the improvements which have not yet been made.

The fair value of real estate will impact our foreclosed asset value, which is recorded at 100% of fair value (after selling costs are deducted). Fair value measurements are an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants.

	<b>December 31, 2021 Foreclosed Assets Higher/(Lower)</b>
<b>Change in Fair Value Assumption</b>	
Increasing fair value of the foreclosed asset by 35%*	\$ –
Decreasing fair value of the foreclosed asset by 35%	\$ 953

\* Increases in the fair value of the foreclosed assets do not impact the carrying value, as the value generally is not “written up.” Those gains would be recognized at the sale of the asset. However, the increase in fair value may be recognized up to the cost basis of the foreclosed asset which was determined at the foreclosure date.

### ***Other Loss Contingencies***

Other loss contingencies are recorded as liabilities when it is probable that a liability has been incurred and the amount of the loss is reasonably estimable. Disclosure is required when there is a reasonable possibility that the ultimate loss will exceed the recorded provision. Contingent liabilities are often resolved over long time periods. Estimating probable losses requires analysis of multiple forecasts that often depend on judgments about potential actions by third parties such as courts, arbitrators, juries, or regulators.



## Accounting and Auditing Standards Applicable to “Emerging Growth Companies”

We are an “emerging growth company” under the JOBS Act. For as long as we are an “emerging growth company,” we are not required to: (1) comply with any new or revised financial accounting standards that have different effective dates for public and private companies until those standards would otherwise apply to private companies, (2) provide an auditor’s attestation report on management’s assessment of the effectiveness of internal control over financial reporting pursuant to Section 404 of the Sarbanes-Oxley Act, (3) comply with any new requirements adopted by the Public Company Accounting Oversight Board, or the PCAOB, requiring mandatory audit firm rotation or a supplement to the auditor’s report in which the auditor would be required to provide additional information about the audit and the financial statements of the issuer or (4) comply with any new audit rules adopted by the PCAOB after April 5, 2012, unless the SEC determines otherwise. However, we have elected to “opt out” of the extended transition period discussed in (4), and will therefore comply with new or revised accounting standards on the applicable dates on which the adoption of such standards is required for non-emerging growth companies. Section 107 of the JOBS Act provides that our decision to opt out of such extended transition period for compliance with new or revised accounting standards is irrevocable.

### Other Significant Accounting Policies

Other significant accounting policies, not involving the same level of measurement uncertainties as those discussed above, are nevertheless important to an understanding of the consolidated financial statements. Policies related to credit quality information, fair value measurements, offsetting assets and liabilities, related party transactions and revenue recognition require difficult judgments on complex matters that are often subject to multiple and recent changes in the authoritative guidance. Certain of these matters are among topics currently under reexamination or have recently been addressed by accounting standard setters and regulators. Specific conclusions have not been reached by these standard setters, and outcomes cannot be predicted with confidence. Also, see Note 2 of our consolidated financial statements, as they discuss accounting policies that we have selected from acceptable alternatives.

### Consolidated Results of Operations

Key financial and operating data for the years ended December 31, 2021 and 2020 are set forth below. For a more complete understanding of our industry, the drivers of our business, and our current period results, this discussion should be read in conjunction with our consolidated financial statements, including the related notes and the other information contained in this document.

Accounting principles generally accepted in the United States of America (U.S. GAAP) require that we report financial and descriptive information about reportable segments and how these segments were determined. Our management determines the allocation and performance of resources based on operating income, net income and operating cash flows. Segments are identified and aggregated based on the products sold or services provided and the market(s) they serve. Based on these factors, management has determined that our ongoing operations are in one segment, commercial lending.

Below is a summary of our statement of operations for the years ended December 31, 2021 and 2020:

<i>(in thousands of dollars)</i>	<b>2021</b>	<b>2020</b>
<b>Net Interest Income</b>		
Interest and fee income on loans	\$ 7,944	\$ 8,209
Interest expense:		
Interest related to secured borrowings	1,973	2,973
Interest related to unsecured borrowings	3,147	3,153
Interest expense	\$ 5,120	\$ 6,126
Net interest income	2,824	2,083
Less: Loan loss provision	588	1,805
Net interest income after loan loss provision	2,236	278
<b>Non-Interest Income</b>		
Gain on sale of foreclosed assets	\$ 166	\$ 160
Gain on foreclosure of assets	67	52
Gain on the extinguishment of debt	371	361
Impairment gains on foreclosed assets	-	91
Total non-interest income	\$ 604	\$ 664
Income	2,840	942
<b>Non-Interest Expense</b>		
Selling, general and administrative	\$ 1,873	\$ 2,185
Depreciation and amortization	53	85
Loss on the sale of foreclosed assets	92	102
Loss on foreclosure	47	54
Impairment loss on foreclosed assets	10	445
Total non-interest expense	2,075	2,871
<b>Net income (loss)</b>	\$ 765	\$ (1,929)
<b>Earned distribution to preferred equity holders</b>	701	525
<b>Net income (loss) attributable to common equity holders</b>	\$ 64	\$ (2,454)

Net income for the year ended December 31, 2021 increased \$2,694 to \$765 when compared to the same period of 2020. The increase in net income was primarily due to decreasing the economic effects stemming from the COVID-19 pandemic, most importantly nonperforming assets and loan losses.

In addition, we had \$46,943 and \$46,405 in loan assets, net as of December 31, 2021 and 2020, respectively. As of December 31, 2021, we had 224 construction loans in 20 states with 66 borrowers and 15 development loans in six states with 12 borrowers.

### ***Interest Spread***

The following table displays a comparison of our interest income, expense, fees and spread for the years ended December 31, 2021 and 2020:

	<b>2021</b>		<b>2020</b>	
<b>Interest Income</b>		*		*
Estimated interest income	\$ 6,280	13%	\$ 7,623	14%
Estimated unearned interest income due to COVID-19	(926)	(2)%	(1,099)	(2)%
Write-offs due to COVID-19	-	-%	(469)	(1)%
Interest income on loans	5,354	11%	6,055	11%
Fee income on loans	3,403	7%	2,735	5%
Deferred loan fees	(813)	(2)%	(581)	(1)%
Fee income on loans, net	2,590	5%	2,154	4%
Interest and fee income on loans	7,944	16%	8,209	15%
Interest expense – secured	1,973	4%	2,973	5%
Interest expense – unsecured	2,979	6%	2,997	6%
Offering costs amortization	168	-%	156	-%
Interest expense	5,120	10%	6,126	11%
Net interest income (spread)	2,824	6%	2,083	4%
Weighted average outstanding loan asset balance	\$ 50,730		\$ 55,189	

\*Annualized amount as percentage of weighted average outstanding gross loan balance

There are three main components that can impact our interest spread:

- ***Difference between the interest rate received (on our loan assets) and the interest rate paid (on our borrowings).*** The loans we have originated have interest rates which are based on our cost of funds, with a minimum cost of funds of 7%. For most loans, the margin is fixed at 3%; however, for our development loans the margin is generally fixed at 7%. This component is also impacted by the lending of money with no interest cost (our equity).

Interest income on loans was 11% for both the years ended December 31, 2021 and 2020. The Company expensed \$469 in interest income during 2020 due to impairment of loans associated with four of our borrowers directly related to COVID-19. In addition, estimated interest not earned during the year ended December 31, 2021 and 2020 related to those borrowers was approximately \$926 and \$1,099, respectively.

We anticipate our standard margin to be 3% on all future construction loans and generally 7% on all development loans which yields a blended margin of approximately 3.6%.

• **Fee income.** Our construction loan fee is 5% on the amount we commit to lend, which is amortized over the expected life of each loan. We do not recognize a loan fee on our development loans. When loans terminate before than their expected life, the remaining fee is recognized at the termination of the loan.

Fee income on loans before deferred loan fee adjustments increased 2% to 7% for the year ended December 31, 2021 compared to 5% for the same period of 2020. The increase of 2% primarily related to modification fees charged on certain loans during 2021.

Deferred loan origination fees increased to (2)% for the year ended December 31, 2021 compared to (1)% for the same period of 2020. The increase in deferred loan origination fees was primarily due to the number of closed and modified construction and development loans, which during 2021 and 2020, was 320 and 224, respectively.

• **Amount of nonperforming assets.** Generally, we can have two types of nonperforming assets that negatively affect interest spread: loans not paying interest and foreclosed assets.

As of December 31, 2021 and 2020, we had 23 impaired loans in the aggregate amount of \$9,526 and 29 impaired loans in the aggregate amount of \$11,816 that were not paying interest, respectively. Non-performing assets not related to the impact of COVID-19 were \$2,914 of the \$9,526 for 2021 and \$1,229 of the \$11,816 for 2020.

Due to the impact of COVID-19, the Company transferred the loan receivables balance of \$9,728 as of June 30, 2020 for one of our largest borrowers into a non-performing asset. As of December 31, 2021, the amount due from this borrower is \$6,612.

Foreclosed assets do not provide a monthly interest return. As of December 31, 2021 and 2020, foreclosed assets were \$2,724 and \$4,449, respectively, which resulted in a negative impact on our interest spread in both years.

The amount of nonperforming assets is expected to decrease in the first half of 2022 as we continue to liquidate nonperforming loans and foreclosed assets.

Cash also does not yield a return. During the third quarter of 2021 we used cash to reduce the amount of debt while maintaining a responsible level of liquidity to cover unfunded commitments on loans and cash needs for operations.

#### ***Loan Loss Provision***

Loan loss provision (expense throughout the year) was \$588 and \$1,805 for the years ended December 31, 2021 and 2020, respectively.

The allowance for loan losses at December 31, 2021 was \$2,048 which primarily consisted of \$163 for loans without specific reserves, \$342 for loans with specific reserves, \$60 for special mention loans and \$1,483 for specific reserves due to the impact of COVID-19. During the year ended December 31, 2021, we incurred \$509 in direct charge offs.

The allowance for loan losses at December 31, 2020 was \$1,968, of which \$151 is related to loans without specific reserves. The Company recorded specific reserves for loans impaired due to impacts from COVID-19 of \$1,532, special mention loans of \$120 and impaired loans not due to impacts from COVID-19 of \$165. During the year ended December 31, 2020, we incurred \$72 in direct charge offs.

### ***Non-Interest Income***

#### ***Gain on Sale of Foreclosed Assets***

During the years ended December 31, 2021 and 2020, we recognized \$166 and \$160, respectively, as a gain on the sale of foreclosed assets which related to the sale of six and seven foreclosed assets during 2021 and 2020, respectively.

#### ***Gain on Foreclosure of Assets***

During the years ended December 31, 2021 and 2020, we recognized \$67 and \$52 as a gain on the foreclosure of assets. We transferred one and seven loan receivable assets to foreclosed assets which resulted in a gain on foreclosure during the years ended December 31, 2021 and 2020, respectively.

#### ***Impairment Gains on Foreclosed Assets***

During the year ended December 31, 2021 and 2020, we recognized \$0 and \$91, respectively, as a gain on impairment of foreclosed assets. During 2020, the impairment gain related primarily to four certain foreclosed assets.

#### ***Gain on the Extinguishment of Debt***

We borrowed approximately \$361 in each of February 2021 and May 2020, pursuant to the Paycheck Protection Program (“PPP”), created under the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act. The PPP is intended to provide loans to qualified businesses to cover payroll and certain other identified costs. Funds from the loan may only be used for certain purposes, including payroll, benefits, rent, and utilities. All or a portion of the loan may be forgivable, as provided by the terms of the PPP.

In August 2021 and November 2020, the full principal amount of the PPP loans and the accrued interest were forgiven by the U.S. Small Business Administration.

During April 2020, the Company received a grant under the Economic Injury Disaster Loan Emergency Advance (the “EIDL Advance”) of \$10 which was used for payroll and other certain operating expenses.

In February 2021, the full EIDL Advance of \$10 and accrued interest were forgiven by the U.S. Small Business Administration.

### ***Non-Interest Expense***

#### ***Selling, General and Administrative (“SG&A”) Expenses***

The following table displays our SG&A expenses for the years ended December 31, 2021 and 2020:

	<b>2021</b>	<b>2020</b>
<b>Selling, general and administrative expenses</b>		
Legal and accounting	\$ 166	\$ 224
Salaries and related expenses	819	975
Board related expenses	99	99
Advertising	65	85
Rent and utilities	53	52
Loan and foreclosed asset expenses	348	498
Travel	154	140
Other	169	112
Total SG&A	<u>\$ 1,873</u>	<u>\$ 2,185</u>

SG&A expenses decreased \$312 to \$1,873 for the year ended December 31, 2021 compared to \$975 for the same period of 2020 due primarily to the following:

- During 2021, salaries and related expenses decreased \$156 to \$819 compared to \$975 for the same period of 2020. The decrease was primarily due to employee retention credit recognized during the second and third quarters of 2021 of \$317, which was partially offset by profit share expense of \$88. No profit share expense was recognized during 2020.
- During 2021, legal and accounting expenses decreased \$58 to \$166 compared to \$224 for the same period of 2020. The decrease related primarily due to the addition of internal counsel during the second quarter of 2020.

#### *Loss on the Sale of Foreclosed Assets*

During the years ended December 31, 2021 and 2020, we recognized \$92 and \$102 as a loss on the sale of foreclosed assets which related to the sale of seven and eight foreclosed assets during 2021 and 2020, respectively.

#### *Loss on Foreclosure of Assets*

During the years ended December 31, 2021 and 2020, we recognized \$47 and \$54 as a loss on the foreclosure of assets. We transferred one and two loan receivable assets to foreclosed assets during 2021 and 2020, respectively.

#### *Impairment Loss on Foreclosed Assets*

During the year ended December 31, 2021 and 2020, we recognized \$10 and \$445 as a loss on impairment of foreclosed assets, respectively. During 2020, impairment loss on foreclosed assets included \$91 recognized as a result of COVID-19.

### **Consolidated Financial Position**

#### *Cash and Cash Equivalents*

We try to avoid borrowing on our lines of credit from affiliates. To accomplish this, we must carry some cash for liquidity. This amount generally grows as our Company grows. As of December 31, 2021 and 2020, our cash was \$3,735 and \$4,749, respectively. See our Liquidity and Capital Resources section for more information.

#### *Loans Receivable*

##### *Commercial Loans – Construction Loan Portfolio Summary*

The following is a summary of our loan portfolio to builders for home construction loans as of December 31, 2021:

State	Number of Borrowers	Number of Loans	Value of Collateral (1)	Commitment Amount	Gross Amount Outstanding	Loan to Value Ratio <sup>(2)</sup>	Loan Fee
Arizona	2	3	\$ 995	\$ 697	\$ 390	70%	5%
Connecticut	2	4	1,535	1,084	719	71%	5%
Delaware	1	6	5,960	2,387	1,817	40%	5%
Florida	18	88	28,922	21,787	13,649	75%	5%
Georgia	2	2	1,130	631	366	56%	5%
Illinois	2	2	1,890	1,199	627	63%	5%
Indiana	1	1	624	436	347	70%	5%
Louisiana	2	3	590	387	125	66%	5%
Michigan	2	12	3,431	2,586	2,299	75%	5%
New Jersey	1	7	2,382	1,910	1,664	80%	5%
New York	1	1	525	378	305	72%	5%
North Carolina	8	14	7,141	4,349	2,105	61%	5%
Ohio	2	9	2,929	2,132	1,105	73%	5%
Oregon	2	2	923	646	440	70%	5%
Pennsylvania	2	20	21,867	13,487	10,078	62%	5%
South Carolina	10	32	8,353	5,793	3,579	69%	5%
Tennessee	2	2	940	582	319	62%	5%
Texas	2	5	2,873	1,750	549	61%	5%
Virginia	3	3	1,140	765	519	67%	5%
Washington	1	8	4,785	3,022	2,104	63%	5%
<b>Total</b>	<b>66</b>	<b>224</b>	<b>\$ 98,935</b>	<b>\$ 66,008</b>	<b>\$ 43,106</b>	<b>67%<sup>(3)</sup></b>	<b>5%</b>

(1) The value is determined by the appraised value.

(2) The loan to value ratio is calculated by taking the commitment amount and dividing by the appraised value.

(3) Represents the weighted average loan to value ratio of the loans.

The following is a summary of our loan portfolio to builders for home construction loans as of December 31, 2020:

State	Number of Borrowers	Number of Loans	Value of Collateral (1)	Commitment Amount	Gross Amount Outstanding	Loan to Value Ratio (2)	Loan Fee
Arizona	3	4	\$ 1,821	\$ 1,503	\$ 1,004	60%	5%
Connecticut	1	1	515	382	262	65%	5%
Delaware	1	1	585	409	187	70%	5%
Florida	16	80	25,779	21,193	16,201	82%	5%
Georgia	3	3	1,300	839	476	65%	5%
Illinois	2	2	1,890	1,199	474	60%	5%
Michigan	4	9	2,451	1,942	805	79%	5%
Mississippi	1	1	240	189	166	79%	5%
New Jersey	1	5	1,357	1,339	928	99%	5%
New York	3	2	1,184	814	845	69%	5%
North Carolina	6	18	4,519	3,123	2,059	69%	5%
Ohio	3	8	2,703	2,020	1,393	75%	5%
Oregon	1	2	1,217	852	238	70%	5%
Pennsylvania	3	24	22,791	13,593	9,825	60%	5%
South Carolina	8	27	7,284	4,930	3,195	68%	5%
Tennessee	3	5	2,169	1,463	509	67%	5%
Texas	3	8	2,806	2,106	1,191	75%	5%
Utah	2	6	2,583	1,822	1,542	71%	5%
Virginia	1	1	505	353	79	70%	5%
Washington	1	5	2,030	1,311	508	65%	5%
Wisconsin	1	1	539	332	332	62%	5%
<b>Total</b>	<b>67</b>	<b>213</b>	<b>\$ 86,268</b>	<b>\$ 61,714</b>	<b>\$ 42,219</b>	<b>72% (3)</b>	<b>5%</b>

(1) The value is determined by the appraised value.

(2) The loan to value ratio is calculated by taking the commitment amount and dividing by the appraised value.

(3) Represents the weighted average loan to value ratio of the loans.

*Commercial Loans – Real Estate Development Loan Portfolio Summary*

The following is a summary of our loan portfolio to builders for land development as of December 31, 2021:

States	Number of Borrowers	Number of Loans	Value of Collateral <sup>(1)</sup>	Commitment Amount <sup>(2)</sup>	Gross Amount Outstanding	Loan to Value Ratio <sup>(3)</sup>	Interest Spread
Pennsylvania	1	4	\$ 9,312	\$ 6,500	\$ 6,103	66%	varies
Florida	5	5	816	1,297	611	75%	7%
Texas	1	1	70	125	77	110%	7%
Connecticut	1	1	350	180	180	51%	7%
Delaware	1	1	543	147	147	27%	7%
South Carolina	3	3	1,373	846	539	39%	7%
<b>Total</b>	<b>12</b>	<b>15</b>	<b>\$ 12,464</b>	<b>\$ 9,095</b>	<b>\$ 7,657</b>	<b>61%<sup>(4)</sup></b>	<b>7%</b>

(1) The value is determined by the appraised value adjusted for remaining costs to be paid and third-party mortgage balances. Part of this collateral is \$1,720 of preferred equity in our Company. In the event of a foreclosure on the property securing these loans, the portion of our collateral that is preferred equity in our Company might be difficult to sell, which could impact our ability to eliminate the loan balance.

(2) The commitment amount does not include unfunded letters of credit.

(3) The loan to value ratio is calculated by taking the outstanding amount and dividing by the appraised value calculated as described above.

(4) Represents the weighted average loan to value ratio of the loans.

States	Number of Borrowers	Number of Loans	Value of Collateral <sup>(1)</sup>	Commitment Amount <sup>(2)</sup>	Gross Amount Outstanding	Loan to Value Ratio <sup>(3)</sup>	Interest Spread
Pennsylvania	1	2	\$ 7,361	\$ 8,200	\$ 6,175	84%	7%
Florida	3	3	1,373	1,193	1,029	87%	7%
New York	1	1	1,238	451	452	36%	7%
North Carolina	1	1	400	260	136	34%	7%
South Carolina	2	2	1,256	711	438	35%	7%
<b>Total</b>	<b>8</b>	<b>9</b>	<b>\$ 11,628</b>	<b>\$ 10,815</b>	<b>\$ 8,230</b>	<b>71%<sup>(4)</sup></b>	<b>7%</b>

(1) The value is determined by the appraised value adjusted for remaining costs to be paid and third-party mortgage balances. Part of this collateral is \$1,630 of preferred equity in our Company. In the event of a foreclosure on the property securing these loans, the portion of our collateral that is preferred equity in our Company might be difficult to sell, which could impact our ability to eliminate the loan balance.

(2) The commitment amount does not include unfunded letters of credit.

(3) The loan to value ratio is calculated by taking the outstanding amount and dividing by the appraised value calculated as described above.

(4) Represents the weighted average loan to value ratio of the loans.

Financing receivables are comprised of the following:

	December 31, 2021	December 31, 2020
Loans receivable, gross	\$ 50,763	\$ 50,449
Less: Deferred loan fees	(1,143)	(1,092)
Less: Deposits	(934)	(1,337)
Plus: Deferred origination costs	305	353
Less: Allowance for loan losses	(2,048)	(1,968)
<b>Loans receivable, net</b>	<b>\$ 46,943</b>	<b>\$ 46,405</b>

Roll forward of combined loans:

	<u>December 31, 2021</u>	<u>December 31, 2020</u>
Beginning balance	\$ 46,405	\$ 55,369
Originations and modifications	45,395	46,177
Principal collections	(44,290)	(50,079)
Transferred to foreclosed assets	(791)	(2,118)
Transferred to real estate investments	-	(1,140)
Change in builder deposit	403	16
Change in allowance for loan losses	(80)	(1,733)
Change in loan fees, net	(99)	(87)
Ending balance	<u>\$ 46,943</u>	<u>\$ 46,405</u>

*Credit Quality Information*

Finance Receivables – By risk rating:

	<u>December 31, 2021</u>	<u>December 31, 2020</u>
Pass	\$ 38,893	\$ 35,544
Special mention	2,344	3,089
Classified – accruing	-	-
Classified – nonaccrual	9,526	11,816
Total	<u>\$ 50,763</u>	<u>\$ 50,449</u>

Finance Receivables – Method of impairment calculation:

	<u>December 31, 2021</u>	<u>December 31, 2020</u>
Performing loans evaluated individually	\$ 16,495	\$ 16,412
Performing loans evaluated collectively	24,742	22,221
Non-performing loans without a specific reserve	596	1,518
Non-performing loans with a specific reserve	8,930	10,298
Total evaluated collectively for loan losses	<u>\$ 50,763</u>	<u>\$ 50,449</u>

At December 31, 2021 and 2020, there were no loans acquired with deteriorated credit.

The following is a summary of our impaired non-accrual commercial construction loans as of December 31, 2021 and 2020:

	<u>December 31, 2021</u>	<u>December 31, 2020</u>
Unpaid principal balance (contractual obligation from customer)	\$ 10,035	\$ 11,888
Charge-offs and payments applied	(509)	(72)
Gross value before related allowance	9,526	11,816
Related allowance	(1,825)	(1,698)
Value after allowance	<u>\$ 7,701</u>	<u>\$ 10,118</u>



Below is an aging schedule of loans receivable as of December 31, 2021, on a recency basis:

	<b>No. Loans</b>	<b>Unpaid Balances</b>	<b>%</b>
Current loans (current accounts and accounts on which more than 50% of an original contract payment was made in the last 59 days)	216	\$ 41,238	81.2%
60-89 days	1	203	0.4%
90-179 days	10	2,058	4.1%
180-269 days	1	392	0.8%
>270 days	11	6,872	13.5%
<b>Subtotal</b>	<b>239</b>	<b>\$ 50,763</b>	<b>100%</b>
Interest only accounts (Accounts on which interest, deferment, extension and/or default charges were received in the last 60 days)	-	\$ -	-%
Partial Payment accounts (Accounts on which the total received in the last 60 days was less than 50% of the original contractual monthly payment. "Total received" to include interest on simple interest accounts, as well as late charges on deferment charges on pre-computed accounts.)	-	\$ -	-%
<b>Total</b>	<b>239</b>	<b>\$ 50,763</b>	<b>100%</b>

Below is an aging schedule of loans receivable as of December 31, 2020, on a recency basis:

	<b>No. Loans</b>	<b>Unpaid Balances</b>	<b>%</b>
Current loans (current accounts and accounts on which more than 50% of an original contract payment was made in the last 59 days)	194	\$ 38,956	77.2%
60-89 days	-	-	-%
90-179 days	-	-	-%
180-269 days	28	11,493	22.8%
<b>Subtotal</b>	<b>222</b>	<b>\$ 50,449</b>	<b>100%</b>
Interest only accounts (Accounts on which interest, deferment, extension and/or default charges were received in the last 60 days)	-	\$ -	-%
Partial Payment accounts (Accounts on which the total received in the last 60 days was less than 50% of the original contractual monthly payment. "Total received" to include interest on simple interest accounts, as well as late charges on deferment charges on pre-computed accounts.)	-	\$ -	-%
<b>Total</b>	<b>222</b>	<b>\$ 50,449</b>	<b>100%</b>

Below is an aging schedule of loans receivable as of December 31, 2021, on a contractual basis:

	<b>No. Loans</b>	<b>Unpaid Balances</b>	<b>%</b>
Contractual Terms - All current Direct Loans and Sales Finance Contracts with installments past due less than 60 days from due date.	216	\$ 41,238	81.2%
60-89 days	1	203	0.4%
90-179 days	10	2,058	4.1%
180-269 days	1	392	0.8%
>270 days	11	6,872	13.5%
<b>Subtotal</b>	<b>239</b>	<b>\$ 50,763</b>	<b>100%</b>
Interest only accounts (Accounts on which interest, deferment, extension and/or default charges were received in the last 60 days)	-	\$ -	-%
Partial Payment accounts (Accounts on which the total received in the last 60 days was less than 50% of the original contractual monthly payment. "Total received" to include interest on simple interest accounts, as well as late charges on deferment charges on pre-computed accounts.)	-	\$ -	-%
<b>Total</b>	<b>239</b>	<b>\$ 50,763</b>	<b>100%</b>

Below is an aging schedule of loans receivable as of December 31, 2020, on a contractual basis:

	<b>No. Loans</b>	<b>Unpaid Balances</b>	<b>%</b>
Contractual Terms - All current Direct Loans and Sales Finance Contracts with installments past due less than 60 days from due date.	194	\$ 38,956	77.2%
60-89 days	-	-	-%
90-179 days	-	-	-%
180-269 days	28	11,493	22.8%
<b>Subtotal</b>	<b>222</b>	<b>\$ 50,449</b>	<b>100%</b>
Interest only accounts (Accounts on which interest, deferment, extension and/or default charges were received in the last 60 days)	-	\$ -	-%
Partial Payment accounts (Accounts on which the total received in the last 60 days was less than 50% of the original contractual monthly payment. "Total received" to include interest on simple interest accounts, as well as late charges on deferment charges on pre-computed accounts.)	-	\$ -	-%
<b>Total</b>	<b>222</b>	<b>\$ 50,449</b>	<b>100%</b>

### ***Foreclosed Assets***

Roll forward of foreclosed assets for the years ended December 31, 2021 and 2020:

	<b>December 31, 2021</b>	<b>December 31, 2020</b>
Beginning balance	\$ 4,449	\$ 4,916
Additions from loans	791	2,118
Additions for construction/development	818	1,410
Sale proceeds	(3,418)	(3,697)
Loss on foreclosure	(47)	(54)
Loss on sale of foreclosed assets	(92)	(102)
Gain on foreclosure	67	52
Gain on sale of foreclosed assets	166	160
Impairment loss on foreclosed assets	(10)	(290)
Impairment loss on foreclosed assets due to COVID-19	-	(64)
<b>Ending balance</b>	<b>\$ 2,724</b>	<b>\$ 4,449</b>

During the year ended December 31, 2021 and 2020 we reclassified 2 and 4 loan receivable, net assets to foreclosed assets, respectively.

### ***Real Estate Investments***

During June 2020, we acquired two lots from a borrower in exchange for the transfer of loans secured by those lots. We extinguished the principal balance for the loans on the lots in the amount of \$640 and in addition, paid a \$500 management fee for the development of homes on certain of our lots that were previously carried as loan receivables. The management fee was paid through reducing the principal balance on a current loan receivable with the borrower. Construction has started on 3 of the 4 homes, one of which has a sales contract to sell to an end user once the home is complete.

The following table is a roll forward of real estate investment assets:

	<u>December 31, 2021</u>	<u>December 31, 2020</u>
Beginning balance	\$ 1,181	\$ –
Transfers from loans	–	1,140
Deposits from real estate investments	(200)	–
Additions for construction/development	670	41
Ending balance	<u>\$ 1,651</u>	<u>\$ 1,181</u>

### ***Customer Interest Escrow***

The Pennsylvania Loans call for a funded interest escrow account which was initially funded with proceeds from the Pennsylvania Loans. The initial funding on that interest escrow was \$450. The balance as of December 31, 2021 and 2020 was \$203 and \$250, respectively. To the extent the balance is available in the interest escrow, interest due on certain loans is deducted from the interest escrow on the date due. The interest escrow is increased by 20% of lot payoffs on the same loans, and by interest and/or distributions on a loan in which we are the borrower and Investor's Mark Acquisitions, LLC is the lender and on the Series B preferred equity. All of these transactions are noncash to the extent that the total escrow amount does not need additional funding.

We had 47 and 29 other loans active as of December 31, 2021 and 2020, respectively, which also had interest escrows. The cumulative balance of all interest escrows other than the Pennsylvania Loans was \$276 and \$259 as of December 31, 2021 and 2020, respectively.

Roll forward of interest escrow for the years ended December 31, 2021 and 2020:

	<u>2021</u>	<u>2020</u>
Beginning balance	\$ 510	\$ 643
Preferred equity dividends	230	83
Additions from Pennsylvania Loans	513	1,173
Additions from other loans	720	448
Interest, fees, principal or repaid to borrower	<u>(1,494)</u>	<u>(1,837)</u>
Ending balance	<u>\$ 479</u>	<u>\$ 510</u>

## Secured Borrowings

### *Loan Purchase and Sale Agreements*

We have two loan purchase and sale agreements where we are the seller of portions of loans we create. The two purchasers are Builder Finance, Inc. (“Builder Finance”) and S.K. Funding, LLC (“S.K. Funding”). Generally, the purchasers buy between 50% and 75% of each loan sold. They receive interest rates ranging from our cost of funds to the interest rate charged to the borrower (interest rates were between 6% and 13% for both 2021 and 2020). The purchasers generally do not receive any of the loan fees we charge. We have the right to call some of the loans sold, with some restrictions. Once sold, the purchaser must fund their portion of the loans purchased. We service the loans. Also, there are limited put options in some cases, whereby the purchaser can cause us to repurchase a loan. The loan purchase and sale agreements are recorded as secured borrowings.

In March 2018, we entered into the Seventh Amendment (the “Seventh Amendment”) to our Loan Purchase and Sale Agreement with S.K. Funding. The purpose of the Seventh Amendment was to allow S.K. Funding to purchase a portion of the Pennsylvania Loans.

The timing of the Company’s principal and interest payments to S.K. Funding under the Seventh Amendment, and S.K. Funding’s obligation to fund the Pennsylvania Loans, vary depending on the total principal amount of the Pennsylvania Loans outstanding at any time, as follows:

- If the total principal amount exceeds \$1,000, S.K. Funding must fund the amount between \$1,000 and less than or equal to \$4,500.
- If the total principal amount is less than \$4,500, then the Company will also repay S.K. Funding’s principal as principal payments are received on the Pennsylvania Loans from the underlying borrowers in the amount by which the total principal amount is less than \$4,500 until S.K. Funding’s principal has been repaid in full.
- The interest rate accruing to S.K. Funding under the Seventh Amendment is 10.5% calculated on a 365/366-day basis.

The Seventh Amendment had a term of 24 months and automatically renews for additional six-month terms unless either party gives written notice of its intent not to renew at least six months prior to the end of a term. S.K. Funding will have a priority position as compared to the Company in the case of a default by any of the borrowers.

In April 2021, we entered into the Eleventh Amendment (the “Eleventh Amendment”) to our Loan Purchase and Sale Agreement with S.K. Funding. The purpose of the Eleventh Amendment was to allow a principal increase to \$2,000 from the original \$1,000 in the Tenth Amendment dated January 2019. In addition, if the collateral value drops then an unsecured portion of \$400 may be used until the collateral is increased back to \$2,000.

The Eleventh Amendment has a term of 12 months and will automatically renew for an additional six-month term unless either party gives written notice of its intent not to renew at least five months prior to the end of a term. S.K. Funding will have a priority position as compared to the Company in the case of a default by any of the borrowers.

### *Lines of Credit*

#### *Lines of Credit with Mr. Wallach and His Affiliates*

During June 2018, we entered into the First Amendment to the line of credit with our Chief Executive Officer and his wife (the “Wallach LOC”) which modified the interest rate on the Wallach LOC to generally equal the prime rate plus 3%. The interest rate for the Wallach LOC was 6.25% as of December 31, 2021 and 2020. As of December 31, 2021, and 2020, the amount outstanding pursuant to the Wallach LOC was \$0. The maximum amount outstanding on the Wallach LOC is \$1,250 and the loan is a demand loan.

During June 2018, we also entered into the First Amendment to the line of credit with the 2007 Daniel M. Wallach Legacy Trust, which is our CEO’s trust (the “Wallach Trust LOC”) which modified the interest rate on the Wallach Trust LOC to generally equal the prime rate plus 3%. The interest rate for this borrowing was 6.25% as of December 31, 2021 and 2020. There were no amounts borrowed against the Wallach Trust LOC as of December 31, 2021 and 2020. The maximum amount outstanding on the Wallach Trust LOC is \$250 and the loan is a demand loan.

#### *Line of Credit with William Myrick*

During June 2018, we entered into a line of credit agreement (the “Myrick LOC Agreement”) with our Executive Vice President (“EVP”), William Myrick. Pursuant to the Myrick LOC Agreement, Mr. Myrick provides us with a line of credit (the “Myrick LOC”) with the following terms:

- Principal not to exceed \$1,000;
- Secured by a lien against all of our assets;
- Cost of funds to us of prime rate plus 3%; and
- Due upon demand.

As of December 31, 2021 and 2020, the amount outstanding pursuant to the Myrick LOC was \$859 and \$0, respectively. For the years ended December 31, 2021 and 2020, interest expense was \$6 and \$19, respectively.

#### *Line of Credit with Shuman*

During July 2017, we entered into a line of credit agreement (the “Shuman LOC Agreement”) with Steven K. Shuman, which is now held by Cindy K. Shuman. Pursuant to the Shuman LOC Agreement, Shuman provides us with a revolving line of credit (the “Shuman LOC”) with the following terms:

- Principal not to exceed \$1,325;
- Secured with assignments of certain notes and mortgages;
- Cost of funds to us of 10%; and
- Due in July 2022, but will automatically renew for additional 12-month periods, unless either party gives notice to not renew.

As of December 31, 2021 and 2020, the amount outstanding pursuant to the Shuman LOC was \$125 and \$1,325, respectively. Interest expense was \$77 and \$135 for the years ended December 31, 2021 and 2020, respectively.

#### *Line of Credit with Swanson*

During December 2018, we entered into a Master Loan Modification Agreement (the “Swanson Modification Agreement”) with Paul Swanson which modified the line of credit agreement between us and Mr. Swanson dated October 23, 2017. Pursuant to the Swanson Modification Agreement, Mr. Swanson provides us with a revolving line of credit (the “Swanson LOC”) with the following terms:

- Principal not to exceed \$7,000;
- Secured with assignments of certain notes and mortgages;
- Cost of funds to us of 6%; and
- Due in July 2022, but will automatically renew for additional 12-month periods, unless either party gives notice to not renew.

The Swanson LOC was fully borrowed as of December 31, 2021 and 2020. Interest expense was \$619 and \$709 for the years ended December 31, 2021 and 2020, respectively.

During December 2021, the full Swanson LOC was assigned to Judith Swanson, as trustee of a trust.

#### *New Lines of Credit*

During 2020 and 2019, we entered into five line of credit agreements (the “New LOC Agreements”). Pursuant to the New LOC Agreements, the lenders provide us with revolving lines of credit with the following terms:

- Principal not to exceed \$6,063;
- Secured with assignments of certain notes and mortgages; and
- Terms generally allow the lenders to give one month notice after which the principal balance of a New LOC Agreement will reduce to a zero over the next six months.

The total balance of the New LOC Agreements was \$2,909 and \$4,159 as of December 31, 2021 and 2020, respectively. Interest expense was \$262 and \$341 for the year ended December 31, 2021 and 2020, respectively.

#### *Mortgage Payable*

During January 2018, we entered into a commercial mortgage on our office building with the following terms:

- Principal not to exceed \$660;
- Interest rate at 5.07% per annum based on a year of 360 days; and
- Due in January 2033.

The principal amount of our commercial mortgage was \$604 and \$619 as of December 31, 2021 and 2020, respectively. For the years ended December 31, 2021 and 2020, interest expense was \$32 and \$33, respectively.

### *Community Loan*

During June 2020, we entered into a business loan agreement with Community Bank (“Community Loan”) with the following terms:

- Principal not to exceed \$362;
- First principal payment due July 2023;
- Secured by certain of our foreclosed assets;
- Interest rate at 3.8% per annum based on a year of 360 days; and
- Due in July 2025.

The principal amount for the Community Loan was \$217 and \$362 as of December 31, 2021 and 2020, respectively. Interest expense for the years ended December 31, 2021 and 2020 was \$11 and \$8, respectively.

### *Secured Deferred Financing Costs*

The Company had secured deferred financing costs of \$7 and \$8 as of December 31, 2021 and 2020, respectively.

### *Secured Borrowings Secured by Loan Assets*

Borrowings secured by loan assets are summarized below:

	<u>December 31, 2021</u>		<u>December 31, 2020</u>	
	<u>Book Value of Loans which Served as Collateral</u>	<u>Due from Shepherd’s Finance to Loan Purchaser or Lender</u>	<u>Book Value of Loans which Served as Collateral</u>	<u>Due from Shepherd’s Finance to Loan Purchaser or Lender</u>
<b>Loan Purchaser</b>				
Builder Finance	\$ 4,847	\$ 2,969	\$ 7,981	\$ 5,919
S.K. Funding	8,084	5,500	4,551	3,898
<b>Lender</b>				
Shuman	566	125	1,916	1,325
Jeff Eppinger	3,328	1,500	2,206	1,500
Hardy Enterprises, Inc.	-	-	1,590	1,000
Gary Zentner	-	-	424	250
R. Scott Summers	1,475	847	1,259	847
John C. Solomon	1,139	563	743	563
Swanson	9,803	6,841	9,381	6,685
<b>Total</b>	<u>\$ 29,242</u>	<u>\$ 18,345</u>	<u>\$ 30,051</u>	<u>\$ 21,987</u>

### **Unsecured Borrowings**

#### *Unsecured Notes through the Public Offering (“Notes Program”)*

The effective interest rate on borrowings through our Notes Program at December 31, 2021 and 2020 was 9.28% and 10.38%, respectively, not including the amortization of deferred financing costs. There are limited rights of early redemption. We generally offer four durations at any given time, ranging from 12 to 48 months. The following table shows the roll forward of our Notes Program:

	<u>December 31, 2021</u>	<u>December 31, 2020</u>
Gross notes outstanding, beginning of period	\$ 21,482	\$ 20,308
Notes issued	7,876	7,691
Note repayments / redemptions	(8,722)	(6,517)
Gross Notes outstanding, end of period	20,636	21,482
Less deferred financing costs, net	(367)	(416)
Notes outstanding, net	<u>\$ 20,269</u>	<u>\$ 21,066</u>

The following is a roll forward of deferred financing costs:

	<u>December 31, 2021</u>	<u>December 31, 2020</u>
Deferred financing costs, beginning balance	\$ 942	\$ 786
Additions	119	156
Deferred financing costs, ending balance	<u>\$ 1,061</u>	<u>\$ 942</u>
Less accumulated amortization	(694)	(526)
Deferred financing costs, net	<u>\$ 367</u>	<u>\$ 416</u>

The following is a roll forward of the accumulated amortization of deferred financing costs:

	<u>December 31, 2021</u>	<u>December 31, 2020</u>
Accumulated amortization, beginning balance	\$ 526	\$ 370
Additions	168	165
Disposals	-	(9)
Accumulated amortization, ending balance	<u>\$ 694</u>	<u>\$ 526</u>

### ***Other Unsecured Debts***

Our other unsecured debts are detailed below:

<u>Loan</u>	<u>Maturity Date</u>	<u>Interest Rate<sup>(1)</sup></u>	<u>Principal Amount Outstanding as of</u>	
			<u>December 31, 2021</u>	<u>December 31, 2020</u>
Unsecured Note with Seven Kings Holdings, Inc.	Demand <sup>(2)</sup>	9.5%	\$ 500	\$ 500
Unsecured Line of Credit from Swanson	July 2022	6.0%	159	315
Unsecured Line of Credit from Builder Finance, Inc.	January 2023	10.0%	750	-
Subordinated Promissory Note	December 2021	10.5%	-	146
Subordinated Promissory Note	April 2024	10.0%	100	100
Subordinated Promissory Note	April 2021	10.0%	-	174
Subordinated Promissory Note	August 2022	11.0%	200	200
Subordinated Promissory Note	March 2023	11.0%	-	169
Subordinated Promissory Note	February 2023	10.0%	600	-
Subordinated Promissory Note	June 2023	10.0%	400	-
Subordinated Promissory Note	February 2021	11.0%	-	600
Subordinated Promissory Note	Demand	5.0%	-	-
Subordinated Promissory Note	December 2022	5.0%	3	3
Subordinated Promissory Note	December 2023	11.0%	20	20
Subordinated Promissory Note	February 2024	11.0%	20	20
Subordinated Promissory Note	January 2025	10.0%	15	-
Subordinated Promissory Note	November 2021	9.5%	-	200
Subordinated Promissory Note	November 2023	9.5%	200	-
Subordinated Promissory Note	October 2024	10.0%	700	700
Subordinated Promissory Note	December 2024	10%	100	100
Subordinated Promissory Note	April 2025	10.0%	202	-
Subordinated Promissory Note	July 2023	8.0%	100	-
Subordinated Promissory Note	July 2024	5.0%	1,500	-
Subordinated Promissory Note	September 2023	7.0%	94	-
Subordinated Promissory Note	October 2023	7.0%	100	-
Subordinated Promissory Note	December 2025	8.0%	180	-
Senior Subordinated Promissory Note	March 2022 <sup>(3)</sup>	10.0%	334	352
Senior Subordinated Promissory Note	March 2022 <sup>(4)</sup>	1.0%	-	728
Junior Subordinated Promissory Note	March 2022 <sup>(4)</sup>	22.5%	-	417
Senior Subordinated Promissory Note	October 2024 <sup>(5)</sup>	1.0%	720	720
Junior Subordinated Promissory Note	October 2024 <sup>(5)</sup>	20.0%	447	447
			<u>\$ 7,444</u>	<u>\$ 5,911</u>

<sup>(1)</sup> Interest rate per annum, based upon actual days outstanding and a 365/366-day year.

<sup>(2)</sup> Due six months after lender gives notice.

<sup>(3)</sup> Lender may require us to repay \$20 of principal and all unpaid interest with 10 days' notice.

<sup>(4)</sup> These notes were issued to the same holder and, when calculated together, yield a blended rate of 11% per annum.

<sup>(5)</sup> These notes were issued to the same holder and, when calculated together, yield a blended rate of 10% per annum.

### Priority of Borrowings

The following table displays our borrowings and a ranking of priority. The lower the number, the higher the priority:

	<b>Priority Rank</b>	<b>December 31, 2021</b>	<b>December 31, 2020</b>
<b>Borrowing Source</b>			
Purchase and sale agreements and other secured borrowings	1	\$ 19,165	\$ 22,968
Secured line of credit from affiliates	2	859	-
Unsecured line of credit (senior)	3	1,250	500
EIDL advance	3	-	10
Other unsecured debt (senior subordinated)	4	1,053	1,800
Unsecured Notes through our public offering, gross	5	20,636	21,482
Other unsecured debt (subordinated)	5	4,693	2,747
Other unsecured debt (junior subordinated)	6	447	864
<b>Total</b>		<b>\$ 48,103</b>	<b>\$ 50,371</b>

### Liquidity and Capital Resources

Our primary liquidity management objective is to meet expected cash flow needs while continuing to service our business and customers. As of December 31, 2021, and 2020, we had combined loans outstanding of 239 and 222, respectively. Gross loans outstanding were \$50,763 and \$50,449 as of December 31, 2021 and 2020, respectively.

Our net cash provided by operating activities increased \$779 to \$1,549 as of December 31, 2021 compared to \$770 for the same period of 2020. The increase was primarily due to higher net income of \$765 for the period ended December 31, 2021 compared to \$(1,929) for the same period of 2020 which was offset by lower accrued interest payable of \$716 for the period ended December 31, 2021 compared to \$1,422 for the same period of 2020.

Unfunded commitments to extend credit, which have similar collateral, credit and market risk to our outstanding loans, were \$22,902 and \$19,495 as of December 31, 2021 and 2020, respectively. As of December 31, 2021, other than unfunded commitments, we had no off-balance sheet transactions, nor do we currently have any such arrangements or obligations.

We anticipate a significant increase in our gross loan receivables over the 12 months subsequent to December 31, 2021 by directly increasing originations to new and existing customers.



To fund our combined loans, we rely on secured debt, unsecured debt, and equity, which are described in the following table:

<b>Source of Liquidity</b>	<b>As of December 31, 2021</b>	<b>As of December 31, 2020</b>
Secured debt, net of deferred financing costs	\$ 20,016	\$ 22,959
Unsecured debt, net of deferred financing costs	\$ 27,713	\$ 26,978
Equity*	\$ 6,604	\$ 5,259
Cash	\$ 3,735	\$ 4,749

\*Equity includes Members' Capital and Redeemable Preferred Equity.

As of December 31, 2021 and 2020, cash was \$3,735 and \$4,749, respectively. During 2021, the Company made the decision to pay down secured debt with high interest rates. The New Line of Credit Agreements decreased \$1,250 to \$2,909 as of December 31, 2021, compared to \$4,159 for the same period of 2020. In addition, the Shuman Line of Credit Agreement decreased \$1,200 to \$125 as of December 31, 2021 compared to \$1,325 for the same period of 2020. Secured debt, net of deferred financing costs decreased \$2,943 to \$20,016 as of December 31, 2021 compared to \$22,959 for the same period of 2020. We anticipate secured debt to increase as our loan receivable balances increase.

Unsecured debt, net of deferred financing costs increased \$735 to \$27,713 as of December 31, 2021 compared to \$26,978 for the same period of 2020. The increase in unsecured debt primarily related to unsecured notes sold outside of our Notes Program.

We borrowed approximately \$361 in each of February 2021 and May 2020, pursuant to the PPP, which was to cover payroll and other identified costs. During August 2021 and November 2020, the full principal amount of the PPP loans and the accrued interest were forgiven by the U.S. Small Business Administration.

During April 2020, the Company received an EIDL Advance of \$10 which was used for payroll and other certain operating expenses. In February 2021, the full EIDL Advance of \$10 and accrued interest were forgiven by the U.S. Small Business Administration.

Equity increased \$1,345 to \$6,604 as of December 31, 2021 compared to \$5,259 for the same period of 2020. The increase was due primarily to Series C cumulative preferred equity. As of December 31, 2021, Series C cumulative preferred equity increased \$1,432 to \$5,014 compared to \$3,582 for the same period of 2020. The increase in equity was partially offset by a decrease in Class A common equity to a deficit of \$130 as of December 31, 2021 compared to equity of \$47 for the same period of 2020.

We anticipate an increase in our equity during the 12 months subsequent to December 31, 2021, through retaining earnings. If we are not able to increase our equity through retained earnings, we will rely more heavily on raising additional funds through the Notes Program.

The total amount of our debt maturing through year ending December 31, 2022 is \$28,238, which consists of secured borrowings of \$19,219 and unsecured borrowings of \$9,019.

Secured borrowings maturing through the year ending December 31, 2022 significantly consists of loan purchase and sale agreements with two loan purchasers (Builder Finance and S. K. Funding) and six lenders. These secured borrowings are listed as maturing over the next 12 months due primarily to their related demand loan collateral. The following are secured facilities listed as maturing in 2022 with actual maturity and renewal dates:

- Swanson – \$6,841 due July 2022 and automatically renews unless notice given;
- Shuman – \$125 due July 2022 and automatically renews unless notice is given;
- S. K. Funding – \$3,500 due July 2022 and automatically renews unless notice is given;
- S. K. Funding – \$2,000 of the total due January 2023;
- Builder Finance, Inc – \$2,969 with no expiration date;
- New LOC Agreements - \$2,909 generally one-month notice and six months to reduce principal balance to zero;
- Myrick LOC - \$859 and due upon demand; and
- Mortgage Payable – \$15 due monthly.

Unsecured borrowings due by December 31, 2022 consist of Notes issued pursuant to the Notes Program and other unsecured debt of \$7,074 and \$1,945, respectively. To the extent that Notes issued pursuant to the Notes Program are not reinvested upon maturity, we will be required to fund the maturities, which we anticipate funding through the issuance of new Notes in our Notes Program. Historically, approximately 80% of our Note holders reinvest upon maturity. The 36 month Note in our Notes program has a mandatory early redemption option, subject to certain conditions. As of December 31, 2021, the 36-month Notes were \$376. Our other unsecured debt has historically renewed. For more information on other unsecured borrowings, see Note 7 – Borrowings. If other unsecured borrowings are not renewed in the future, we anticipate funding such maturities through investments in our Notes Program.

### Summary

We have the funding available to address the loans we have today, including our unfunded commitments. We anticipate growing our assets through the net sources and uses (12-month liquidity) listed above as well as future capital increases from debt, redeemable preferred equity, and regular equity. Our expectation to grow loan asset balances is subject to changes due to changes in demand, competition, and COVID-19. Although our secured debt is almost entirely listed as currently due because of the underlying collateral being demand notes, the vast majority of our secured debt is either contractually set to automatically renew unless notice is given or, in the case of purchase and sale agreements, has no end date as to when the purchasers will not purchase new loans (although they are never required to purchase additional loans).

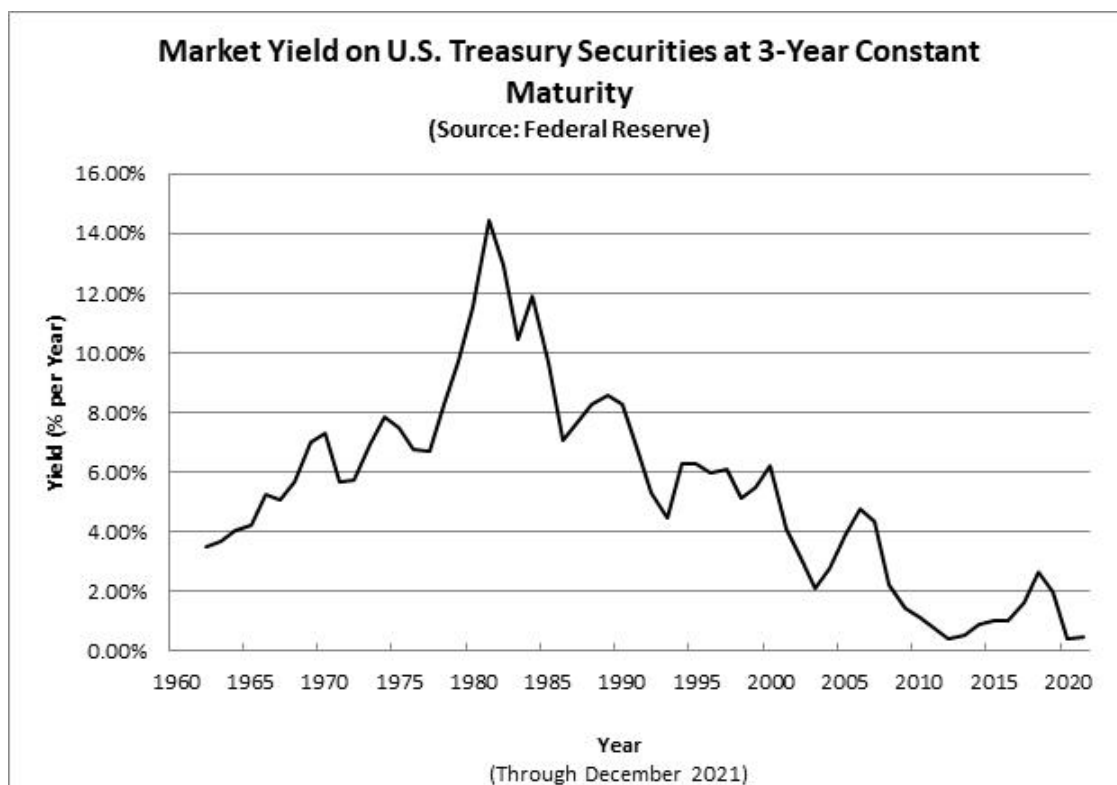
### Inflation, Interest Rates, and Housing Starts

Since we are in the housing industry, we are affected by factors that impact that industry. Housing starts impact our customers' ability to sell their homes. Faster sales mean higher effective interest rates for us, as the recognition of fees we charge is spread over a shorter period. Slower sales mean lower effective interest rates for us. Slower sales are likely to increase the default rate we experience.

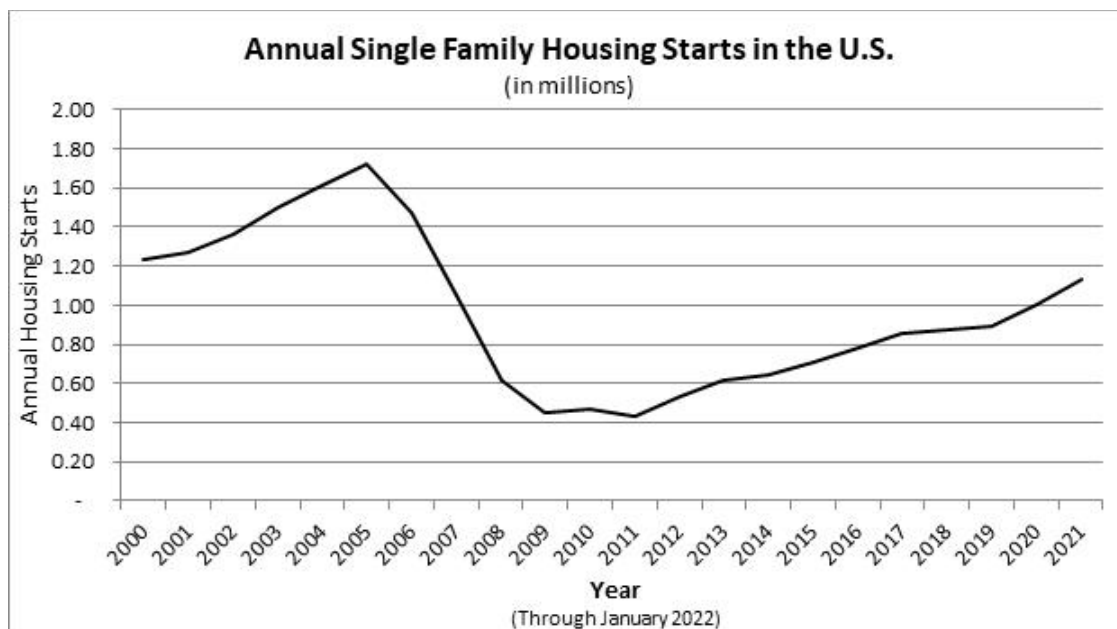
Housing inflation has a positive impact on our operations. When we lend initially, we are lending a percentage of a home's expected value, based on historical sales. If those estimates prove to be low (in an inflationary market), the percentage we loaned of the value actually decreases, reducing potential losses on defaulted loans. The opposite is true in a deflationary housing price market. It is our opinion that values are well above average in many of the housing markets in the U.S. today.

General economic inflation has been a factor and seems like it will continue to be a factor in all businesses for now and going forward. This impacts our customers and ourselves. One of our main focuses in 2021 and in 2022 is to increase our margin to counterbalance the cost of inflation to our expenses.

Interest rates have several impacts on our business. First, rates affect housing (starts, home size, etc.). High long-term interest rates may decrease housing starts, having the effects listed above. Higher interest rates will also affect our investors. We believe that there will be a spread between the rate our Notes yield to our investors and the rates the same investors could get on deposits at FDIC insured institutions. We also believe that the spread may need to widen if these rates rise. For instance, if we pay 7% above average CD rates when CDs are paying 1.5%, when CDs are paying 3%, we may need a larger than 7% difference. This may cause our lending rates, which are based on our cost of funds, to be uncompetitive. High interest rates may also increase builder defaults, as interest payments may become a higher portion of operating costs for the builder. Below is a chart showing three-year U.S. treasury rates, which are being used by us here to approximate CD rates. Short term interest rates have risen slightly but are generally low historically.



Housing prices are also generally correlated with housing starts, so that increases in housing starts usually coincide with increases in housing values, and the reverse is generally true. Below is a graph showing single family housing starts from 2000 through today.



(Source: U.S. Census Bureau)

To date, changes in housing starts, CD rates, and inflation have not had a material impact on our business. The effect of significant long term interest rate increases may be detrimental to our earnings

#### **Recent Accounting Pronouncements**

See Note 2 to our consolidated financial statements for a description of new or recent accounting pronouncements.

#### **Subsequent Events**

See Note 14 to our consolidated financial statements for subsequent events.

#### **ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

We are a smaller reporting company as defined by Rule 12b-2 of the Securities Exchange Act of 1934 and are not required to provide the information under this item.

#### **ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

The consolidated financial statements and supplementary data filed as part of this annual report are set forth beginning on page F-1 of this report.

#### **ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE.**

None.

## ITEM 9A. CONTROLS AND PROCEDURES

### Disclosure Controls and Procedures

As of the end of the period covered by this report, management including our CEO (our principal executive officer) and CFO (our principal financial officer) evaluated the effectiveness of the design and operation of our disclosure controls and procedures. Based upon, and as of the date of, the evaluation, our CEO (our principal executive officer) and CFO (our principal financial officer) concluded that the disclosure controls and procedures were effective as of the end of the period covered by this report to ensure that information required to be disclosed in the reports we file and submit under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), is recorded, processed, summarized and reported as and when required. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in the reports we file and submit under the Exchange Act is accumulated and communicated to our management, including our CEO (our principal executive officer) and CFO (our principal financial officer), as appropriate to allow timely decisions regarding required disclosure.

### Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for us. Management evaluated, as of December 31, 2021, the effectiveness of our internal control over financial reporting. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”) in Internal Control—Integrated Framework (2013). Based on this evaluation, management concluded that our internal control over financial reporting was effective as of December 31, 2021.

There has been no change in our internal control over financial reporting during the quarter ended December 31, 2021, that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

## ITEM 9B. OTHER INFORMATION

During the fourth quarter of 2021, there was no information required to be disclosed in a report on Form 8-K which was not disclosed in a report on Form 8-K.

## ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS

Not applicable.

## PART III

## ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

### Managers and Executive Officers

Included below is certain information about our managers and executive officers. Mr. Wallach was initially elected to a three-year term that expired in March 2016 and his current three-year term expires in March 2022, Mr. Summers was initially elected to a two-year term that expired in March 2014 and his current three-year term expires in March 2023, Mr. Rauscher was initially elected to a three-year term that expired in March 2018 and his current three-year term expires in March 2024, and Mr. Sheldon was initially elected to a one-year term that expired in March 2020 and his current three-year term expires in March 2023.

**Daniel M. Wallach**, age 54, is our CEO and a manager. He has been our CEO since our Company was founded and, prior to the addition of two independent managers in March 2012, he was our sole manager. Mr. Wallach has over 25 years of experience in finance and real estate. Prior to his time with us, most recently, from May 2011 to July 2011, Mr. Wallach was an Executive Vice President for ProBuild Holdings, a building material supplier to homebuilders. Before that, from 1985 to 1989, and 1990 to April 2011, Mr. Wallach held various positions with 84 Lumber Company and affiliates, including Chief Financial Officer and Director. 84 Lumber is a building material supplier to homebuilders and was, at that time, one of our affiliates. At 84 Lumber, Mr. Wallach oversaw the company’s financial and accounting function, including all aspects related to financial reporting, debt financing, customer financing, customer credit and management information systems. Mr. Wallach was also intimately involved with the creation of 84 FINANCIAL, L.P., a finance company affiliated with and owned by 84 Lumber, which had investment objectives similar to ours. Mr. Wallach has also held operational and finance positions with a mortgage brokerage firm and a building contractor. He graduated from Washington and Jefferson College in Washington, Pennsylvania with a B.A. in Business Administration.

**Barbara L. Harshman**, age 46, is our Executive Vice President of Operations, a position to which she was appointed in July 2015. She was hired in August 2012 as Vice President of Operations. Prior to joining the Company, from 2005 to 2012, Ms. Harshman worked in various positions in 84 Lumber Company's lending operations, including Vice President of Lending. Ms. Harshman also worked as a credit manager for 84 Lumber during 2004 and 2005, where she managed a portfolio of \$35,000,000 of unsecured debt owed by builders. Ms. Harshman graduated from Baylor University with a B.A. in Anthropology.

**Mark Reynolds**, age 47, was appointed Executive Vice President of Sales in April 2021. Mr. Reynolds, has over 19 years of experience in the construction finance industry. He was previously our Regional Sales Manager from May 2016 until April 2021 and was also the National Real Estate Owned ("REO") Manager from January 2020 until April 2021. Previously, Mr. Reynolds held various positions with 84 Lumber Company, including REO Specialist, where he worked with counsel to negotiate liens, finish building houses, and relieve as much debt as possible while controlling losses (from 2008 through 2014), National Finance Manager, in residential financing (from 2006 through 2008), and Regional Finance Manager, in commercial financing, where he helped finance projects such as hotels, apartments, restaurants, and casinos (from 2000 through 2004). Mr. Reynolds attended Indiana University at South Bend, where he studied Business Management.

**Catherine Loftin**, age 43, is our Chief Financial Officer, to which she was appointed in April 2021. Ms. Loftin previously served as Acting Chief Financial Officer from July 2019 to April 2021 and as Chief Financial Officer from January 2018 to May 2019 and continued to serve as our employee since May 2019. Ms. Loftin previously served as our Controller from November 2017 until her appointment as Chief Financial Officer. Prior to joining the Company, Ms. Loftin was the Corporate Controller for Lucas Group from November 2017 to June 2018, Division Controller for Pulte Group from July 2014 through November 2017 and Director of Financial Reporting for DS Services Holdings, Inc. from November 2013 to April 2014. Ms. Loftin spent a majority of her career with Simmons Bedding Company as Manager of Financial Reporting from 2006 to 2013. Ms. Loftin started her accounting career with PricewaterhouseCoopers with an internship in 1999 and an associate in 2001. Ms. Loftin received her Bachelors of Business of Administration from the Terry College of Business School at the University of Georgia in 2000, and her Masters of Accounting from Kennesaw State University's Cole's College of Business in 2001.

**William Myrick**, age 60, is our Executive Vice President, to which he was appointed on April 20, 2021. Mr. Myrick previously served as Executive Vice President of Sales since March 2018. Mr. Myrick was one of our independent managers from March 2012 to March 2018. He has been involved in lumber and building materials for over 35 years. From July 2012 through December 2017, Mr. Myrick was the CEO of American Builders Supply, a building material supplier to homebuilders, where he was responsible for all aspects of the management of that business. From January 2007 to July 2011, he held various executive officer positions with ProBuild Holdings, including, most recently, CEO, and was responsible for all aspects of the management of ProBuild's business. From 1982 to January 2007, Mr. Myrick was with 84 Lumber Company, where he held positions including, most recently, Chief Operating Officer. Mr. Myrick served as a director of ProBuild from July 2010 to July 2011, and currently serves as a director of American Builders Supply, a position he has held since July 2012. He is a graduate of the Advanced Management Program from Harvard Business School.

**Kenneth R. Summers**, age 75, is one of the independent managers, to which he was elected in March 2012. Mr. Summers retired from United Bank, Inc. of Morgantown, West Virginia in December 2019. Prior to retirement, he had been an Executive Vice President for United Bank since 2001. In that role he was responsible for the expansion and recognition of the bank's franchise in north central West Virginia. Mr. Summers has over 30 years of experience as a community bank executive. He graduated from the University of Charleston with a B.S. in Accounting and Management.

**Eric A. Rauscher**, age 56, is one of the independent managers, to which he was elected in March 2015. Mr. Rauscher is a licensed insurance sales person and has worked in that industry since 1999. Prior to that, he spent over ten years as a field sales engineer. He graduated from Case Western Reserve University with a B.S. in Electrical Engineering and Applied Physics, with a minor in Economics.

**Gregory L. Sheldon**, age 63, has been one of our independent managers since March 2019. Mr. Sheldon brings 41 years of business experience building global corporations and integrating acquisitions across finance, supply chain, manufacturing, and the corporate functions. Since March 2021 he has served as the Interim CIO for TherapeuticsMD, an innovative pharmaceutical company exclusively committed to advancing women's health. His previous roles include Global Chief Information Officer for Mylan, Inc., from October 2008 to March 2013, the CIO for Duquesne Light Company from August 2013 to March 2015, and, from October 2018 until December 2019, as the Interim CIO for MiMedx Group, Inc. Since July 2014, Mr. Sheldon has been an owner of two companies which invest in land acquisition, development, and the construction of residential homes: White Column Investments, LLC, where he is the President and Managing Member, and Sheldon Investments, LLC. Since 2017, he has served as a non-compensated advisor to Mark Hoskins, who owns Benjamin Marcus Homes, LLC and Investor's Mark Acquisitions, LLC, which are companies that design, develop, and build single family homes, and which are also two of our customers. Mr. Sheldon has been the owner of Greg Sheldon and Associates, LLC, a consultant, and strategic advisor to clients in the life sciences, consumer products, technology, and manufacturing industries since April 2015. Mr. Sheldon has held multiple leadership positions with leading, global companies including Kraft General Foods, Georgia-Pacific, and Pfizer Inc., and the start-up of The Georgia Lottery. He graduated from Georgia State University with a Master of Science in Management and from Georgia Institute of Technology with a Bachelor of Science in Industrial Management.

## **Code of Ethics**

Our board of managers adopted an amended Code of Ethics and Business Conduct on August 6, 2020 (the "Code of Ethics"), which contains general guidelines applicable to our employees, executive officers and the members of our board of managers with the purpose of promoting the following: (1) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships; (2) full, fair, accurate, timely and understandable disclosure in reports and documents that we file with, or submit to, the SEC and in other public communications made by us; (3) compliance with applicable laws and governmental rules and regulations; (4) the prompt internal reporting of violations of the Code of Ethics to an appropriate person or persons identified in the Code of Ethics; and (5) accountability for adherence to the Code of Ethics. A copy of the Code of Ethics is posted on our website at [www.shepherdsfinance.com](http://www.shepherdsfinance.com).

## **Audit Committee**

Our board of managers has established a separately-designated audit committee, whose charter was adopted on August 9, 2012 and last amended on August 6, 2020. The purpose of the audit committee is to oversee the Company's accounting and financial reporting processes and the audit of the Company's consolidated financial statements. Our audit committee consists of Messrs. Rauscher, Summers, and Sheldon, our three independent managers. We have no "audit committee financial expert" (as such term is defined in Item 407(d)(5)(ii) of Regulation S-K). We believe the cost to retain a financial expert at this time is prohibitive. However, our board of managers believes that each member of the audit committee has sufficient knowledge and relevant background experience to serve on the audit committee.

## **ITEM 11. EXECUTIVE COMPENSATION**

### **Executive Officer Compensation**

This discussion describes our compensation philosophy and policies for our executive officers, which currently includes our CEO, EVP, EVP of Operations, EVP of Sales and CFO.

#### ***Objectives of Executive Officer Compensation Program***

The objectives of our executive compensation program are to attract, retain, and motivate highly talented executives and to align each executive's incentives with our short-term and long-term objectives, while maintaining a healthy and stable financial position. Specifically, our executive compensation program is designed to accomplish the following goals and objectives:

- maintain a compensation program that is equitable in our marketplace;
- provide opportunities that integrate pay with the short-term and long-term performance goals;

- encourage and reward achievement of strategic objectives, while properly balancing a controlled risk-taking behavior; and
- maintain an appropriate balance between base salary and short-term and long-term incentive opportunity.

### ***Determining Executive Officer Compensation***

The compensation committee of our board of managers is responsible for determining all aspects of our executive compensation program. The determination and assessment of executive compensation are primarily driven by the following three factors: (1) market data based on the compensation levels, programs and practices of other comparable companies for comparable positions, (2) our financial performance, and (3) executive officer performance. We believe these three factors provide a reasonably measurable assessment of executive performance in light of building value and creating a healthy financial position for us. We rely upon the judgment of the members of the compensation committee and not on rigid formulas or short-term changes in business performance in determining the amount and mix of compensation elements and whether each element provides the appropriate incentive and reward for performance that sustains and enhances our long-term growth.

### ***Executive Officer Compensation Components***

#### ***Base Salary***

We provide each of our paid executive officers with a base salary to compensate such officer for services rendered throughout the year. Salaries are established annually based on the individual's position, experience, performance, past and potential contribution to us, and level of responsibility, as well as our overall financial performance. No specific weighting is applied to any one factor considered, and the independent managers use their judgment and expertise in determining appropriate salaries within the parameters of the compensation philosophy.

#### ***Bonus***

We pay each of our executive officers a team bonus mostly based on our overall profitability, which rewarded each of them \$1,300 and \$1,200 in 2021 and 2020, respectively. In addition, we rewarded an annual bonus of \$1,800 for both 2021 and 2020, which is extended to compensate vacation expenses. Finally, each executive officer is eligible for a portion of net income earned, or profit share.

We pay our EVP of Sales monthly bonus based on a percentage of all new sales and construction loan payoffs.

#### ***Membership Interests***

As the beneficial owner of 80.7% (as of March 1, 2022) of our outstanding common membership interests, Mr. Wallach's interests are closely aligned with our success. Our Executive Vice President of Operations owns 2% of our outstanding common membership interests and our Executive Vice President owns 15.3% of our outstanding common membership interests. As we hire additional executive officers, we may use membership interests in some fashion as part of their compensation.

### ***Summary Compensation Table***

The following table provides a summary of the compensation received by our named executive officers for the last two completed fiscal years:

<b>Name and Position</b>	<b>Year</b>	<b>Salary</b>	<b>Bonus (1)</b>	<b>Stock Awards</b>	<b>Option Awards</b>	<b>Non-Equity Incentive Plan Compensation</b>	<b>Non-Qualified Deferred Compensation Earnings</b>	<b>All Other Compensation (2)</b>	<b>Total</b>
Mr. Wallach	2021	\$ 72,240	\$ 1,300	—	—	—	—	49,460	\$123,000
	2020	72,240	1,200	—	—	—	—	—	73,440
Ms. Harshman	2021	112,550	3,100	—	—	—	—	63,639	179,289
	2020	115,817	1,200	—	—	—	—	—	117,017
Mr. Reynolds <sup>(3)</sup>	2021	90,975	83,515	—	—	—	—	37,523	212,013
	2020	60,000	61,373	—	—	—	—	10,000 <sup>(3)</sup>	131,373

<sup>(1)</sup> Amounts in the Bonus column represent amounts earned in the period.

<sup>(2)</sup> Qualified Retirement Plan Contributions are shown here when funds are earned.

<sup>(3)</sup> Mr. Reynolds did not serve as an executive officer of the Company in 2020 and was appointed EVP of Sales in April 2021. In addition, Mr. Reynolds received forgiveness for an employee loan for \$20,000 and \$10,000 in 2021 and 2020, respectively.

### *Changes for 2022*

Mr. Wallach will receive a base salary of \$72,240 for 2022. Ms. Harshman, our Executive Vice President of Operations, will receive a base salary of \$112,550 for 2022 and an annual bonus of \$7,000. Mr. Reynolds, our EVP of Sales, will receive a base salary of \$90,975 and will receive a monthly bonus based on a percentage of all new sales and construction loan payoffs. In addition, Mr. Wallach, Ms. Harshman and Mr. Reynolds will receive the team and vacation bonus, which will reward between \$0 and \$3,600 and \$1,800, respectively.

### **Board of Managers Compensation**

The following table provides a summary of the compensation received by our managers for the year ended December 31, 2021:

<b>Name</b>	<b>Fees Earned or Paid in Cash</b>	<b>Stock Awards</b>	<b>Option Awards</b>	<b>Non-Equity Incentive Plan Compensation</b>	<b>Change in Pension Value and Nonqualified Deferred Compensation</b>	<b>All Other Compensation</b>	<b>Total</b>
Daniel M. Wallach	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
Kenneth R. Summers	33,000	—	—	—	—	—	33,000
Eric A. Rauscher	33,000	—	—	—	—	—	33,000
Gregory L. Sheldon	<u>33,000</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>33,000</u>
<b>Total</b>	<u>\$ 99,000</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$99,000</u>

We paid each of the independent managers an annual retainer of \$25,000. Our independent managers also receive fees of \$2,000 for the first day and \$1,200 for any additional days for meetings of the board of managers and committees attended in person, all or a portion of which may be allocated as reimbursement of expenses incurred in connection with attendance at meetings. The independent managers do not receive separate reimbursement of out-of-pocket expenses incurred in connection with attendance at meetings. Mr. Wallach receives no compensation for his services as a manager.



## ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The following table sets forth the ownership of certain of our outstanding membership interests as of December 31, 2021:

Title of Class	Name and Address of Owner <sup>(1)</sup>	Number of Units	Percent of Class	Dollar Value	Percentage of Total Equity
Class A Common Units	Daniel M. Wallach and Joyce S. Wallach	87.53	3.3%	\$ (4,316)	(0.1)%
Class A Common Units	2007 Daniel M. Wallach Legacy Trust	2,033.43	77.4%	(100,264)	(1.5)%
Class A Common Units	Kenneth R. Summers	26.29	1.0%	(1,296)	-%
Class A Common Units	Eric A. Rauscher	26.29	1.0%	(1,296)	-%
Class A Common Units	William Myrick	402.88	15.3%	(19,866)	(0.3)%
Class A Common Units	Barbara Harshman	52.58	2.0%	(2,593)	(0.1)%
Subtotal of Common Voting Equity		2,629.00	100.0%	(129,631)	(2.0)%
Series C Preferred Units	Daniel M. Wallach and Joyce S. Wallach	18.05	36.0%	1,804,503	27.3%
Series C Preferred Units	Gregory L. Sheldon and Madeline M. Sheldon	6.31	12.6%	631,371	9.6%
Series C Preferred Units	Other Holders of Series C Preferred Units	25.78	51.4%	2,577,911	39.0%
Subtotal of Series C Preferred Units		50.14	100.0%	5,013,785	75.9%
Series B Preferred Units	Holders of Series B Preferred Units	17.20	100.0%	1,720,000	26.1%
Total Members' Capital and Redeemable Preferred Equity		2,696.34		\$ 6,604,154	100.0%

<sup>(1)</sup> The addresses of each Class A Common Unit owners named above are:

- Daniel and Joyce Wallach, the 2007 Daniel M. Wallach Legacy Trust, William Myrick, and Barbara Harshman are 13241 Bartram Park Blvd., Suite 2401, Jacksonville, FL 32258;
- Kenneth R. Summers is PO Box 995, Morgantown, WV 26507; and
- Eric A. Rauscher is 2706 South Park Rd, Bethel Park, PA 15102.

The address of each Series C Preferred Unit owners named above are:

- Daniel and Joyce Wallach, and the 2007 Daniel M. Wallach Legacy is 13241 Bartram Park Blvd, Suite 2401, Jacksonville, FL 32258; and
- Gregory L. Sheldon and Madeline M. Sheldon is 104 Windsor Ct, Venetia, PA 15367.

## ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

### Transactions with Affiliates

#### *Lines of Credit*

On December 30, 2011, we obtained two demand loans from Mr. and Mrs. Wallach to finance our operations. These demand loans are collateralized by a lien against all of our assets and are senior in right of payment to the Notes. Mr. Wallach, our CEO (who is also on our board of managers), is the beneficial owner of 80.7% of our outstanding common membership interests.

The first loan, in the original principal amount of \$1,250,000, is payable to Daniel M. Wallach and Joyce S. Wallach, as tenants by the entirety (the "Wallach LOC"). The second loan, in the original principal amount of \$250,000, is payable to the 2007 Daniel M. Wallach Legacy Trust (the "Wallach Trust LOC"). The total outstanding balance on the Wallach LOC at December 31, 2021 and 2020 were both \$0. The largest aggregate amount of principal outstanding on the Wallach LOC during 2020 was \$0. Interest paid on the Wallach LOC was \$0 and less than \$1,000 for the years ended December 31, 2021 and 2020, respectively. The total outstanding balance on the Wallach Trust LOC as of both December 31, 2021 and 2020 was \$0. The largest aggregate amount of principal outstanding on the Wallach Trust LOC during 2020 was \$0. We have had no borrowings on the Wallach Trust LOC in 2021 or 2020. Each of the lines of credit is evidenced by a promissory note, is payable upon demand of the lender, and generally bears an interest rate equal to the prime rate plus 3%. Pursuant to each promissory note, the lender has the option of funding any amount up to the face amount of the note, in the lender's sole and absolute discretion. As of December 31, 2021, and 2020, the interest rate was 6.25% for both the Wallach LOC and the Wallach Trust LOC.

The original entries into the Wallach LOC and the Wallach Trust LOC were approved by Mr. Wallach in his capacity as sole manager prior to the time we had independent managers. As the demand loans were made at rates equal to the lenders' cost of funds, Mr. Wallach determined the terms of the demand loans to be as favorable to us as those generally available from unaffiliated third parties. The independent managers ratified and approved these transactions subsequent to the formation of the board of managers. See "Risk Factors — Risks Related to Conflicts of Interest — Our CEO (who is also on our board of managers) and Executive Vice President will face conflicts of interest as a result of the secured lines of credit made to us, which could result in actions that are not in the best interests of our Note holders." In June 2018, the Company's board of managers (with Mr. Wallach abstaining) approved amendments to the Wallach LOC and Wallach Trust LOC to change the interest rate on each to generally equal the prime rate plus 3%.

During June 2018, we entered into a line of credit agreement with our EVP William Myrick (the "Myrick LOC Agreement"), which was approved by the Company's board of managers. Pursuant to the Myrick LOC Agreement, Mr. Myrick provides us with a line of credit (the "Myrick LOC") secured by a lien against all of our assets with the following terms with principal not to exceed \$1,000,000. The interest rate on the Myrick LOC is generally equal to the prime rate plus 3%. The Myrick LOC is due upon demand. As of December 31, 2021 and 2020, the amount outstanding pursuant to the Myrick LOC was \$859,000 and \$0, respectively. The largest aggregate amount of principal outstanding on the Myrick LOC during 2021 and 2020 was \$1,000,000 and \$0, respectively. Interest expense was \$6,000 and \$19,000 for the years ended December 31, 2021 and 2020, respectively.

During July 2019, we entered into five separate line of credit agreements (the "New LOC Agreements"), one of which was with R. Scott Summers, the son of Kenneth R. Summers, one of our independent managers. The Company's board of managers approved the Company entering into the agreement which provides us with a line of credit secured with assignments of certain notes and mortgages and a lien against all of our assets, and with principal not to exceed \$2,000,000 which is R. Scott Summers portion of the New LOC Agreements. The interest rate is 9% and terms include termination upon 30 days' notice. As of December 31, 2021 and 2020, the amount outstanding pursuant to the New LOC Agreements was \$2,909,000 and \$847,000, respectively. The largest aggregate amount of principal outstanding on the New LOC Agreements during 2021 and 2020 was \$3,859,000 and \$847,000, respectively. Interest expense was \$262,000 and \$86,000 for the years ended December 31, 2021 and 2020, respectively.

#### *Notes Program Investments*

The Company has accepted investments under the Notes Program from employees, managers, members, and relatives of managers and members, with \$3,989,000 outstanding at December 31, 2021. For the years ended December 31, 2021 and 2020 our investments from affiliates which exceed \$120,000 through our Notes Program and other unsecured debt are detailed below:

(All dollar [\$] amounts shown in table in thousands.)

Investor	Relationship to Shepherd's Finance	Amount invested as of December 31,		Weighted average interest rate as of December 31, 2021	Interest earned during the year ended December 31,	
		2021	2020		2021	2020
Eric A. Rauscher	Independent Manager	\$ 475	\$ 475	10.00%	\$ 36	\$ 47
Capture HD Inc., Defined Benefit Plan & Trust	Sponsor is Brother of Employee	1,000	1,000	11.00%	149	142
David Wallach Living Trust	Father of Member	571	577	10.23%	58	60
Gregory L. Sheldon	Independent Manager	577	1,053	10.22%	59	112
Joseph Rauscher	Parent of Independent Manager	195	195	11.00%	21	14
Kenneth Summers	Independent Manager	100	189	4.00%	1	20
Schultz Family Revocable Living Trust	Trustee is Mother-in- Law of Member	148	132	9.88%	15	14
Kimberly Bedford	Employee	148	160	10.88%	16	16
Lamar Sheldon	Parent of Independent Manager	253	217	9.03%	23	21

### ***Other Notes Investments***

The Company has a Senior Subordinated Promissory Note to the father of Mr. Wallach in the principal amount of \$333,000. The annual interest rate on that promissory note is 10% and the lender may require us to repay \$20,000 of principal and all unpaid interest with 10 days' notice. As of December 31, 2021 and 2020, the amount outstanding pursuant to the promissory note was \$333,000 and \$352,000, respectively. The largest aggregate amount of principal outstanding on the promissory note during 2021 and 2020 was \$352,000 and \$400,000, respectively. Interest expense was \$32,000 and \$40,000 for the years ended December 31, 2021 and 2020, respectively.

### ***Hoskins Group's Series B Preferred Equity***

The Series B cumulative preferred membership units ("Series B Preferred Units") of our membership interests were first issued to the Hoskins Group through a reduction in the amount owed by us on a loan in which a member of the Hoskins Group is the lender. They are redeemable only at the option of the Company or upon a change or control or liquidation. The Series B Preferred Units have a fixed value which is their purchase price, and preferred liquidation and distribution rights. Yearly distributions of 10% of the Series B Preferred Units' value (providing profits are available) will be made quarterly. The Hoskins Group's Series B Preferred Units are also used as collateral for that group's loans to the Company. There is no liquid market for the Series B Preferred Units, so we can give no assurance as to our ability to generate any amount of proceeds from that collateral. In December 2015, the Hoskins Group agreed to purchase 0.1 Series B Preferred Units upon each closing of a lot sale in the subdivisions in which we lend the Hoskins Group development funds. The Hoskins Group purchased 0.9 and 1.6 Series B Preferred Units in 2021 and 2020, respectively.

### ***Series C Preferred Equity***

Investors in the Series C cumulative preferred units ("Series C Preferred Units") may elect to reinvest their distributions in additional Series C Preferred Units (the "Series C Reinvestment Program"). Pursuant to the Series C Reinvestment Program, as of December 31, 2021, we have issued approximately 2.03 Series C Preferred Units to Daniel M. Wallach, our CEO, for distribution proceeds of approximately \$203,000 and we have issued approximately 0.51 Series C Preferred Units to Gregory L. Sheldon for distribution proceeds of approximately \$51,000. During 2021, Mr. Sheldon invested an additional \$200,000 in Series C Preferred Equity.

The Series C Preferred Units have a fixed value which is their purchase price and preferred liquidation and distribution rights. Yearly distributions of 12% of the Series C Preferred Units' value (provided profits are available) will be made on a quarterly basis. This rate can increase if any interest rate on our public Notes offering rises above 12%. Dividends can be reinvested monthly into additional Series C Preferred Units. The Series C Preferred Units have the same preferential rights as the Series B Preferred Units as more fully described above.

### ***Sale of Commercial Loans***

During November and December 2021, the Company serviced two construction loans for William Myrick (the Company's Executive President). The funding for construction fees and services for both Loans were provided by Mr. Myrick's LOC. As of December 31, 2021, the Company continued to service both loans.

During December 2021, the Company sold one loan to Gregory Sheldon (one of the Company's Mangers) for approximately \$405,000. As of December 31, 2021, the Company continued to service the loan.

In July 2020, the Company purchased two loans at cost from Daniel M. Wallach (the Company's Chief Executive Officer and Chairman of the board of managers) for approximately \$198,000. Those loans had previously been purchased from the Company by Mr. Wallach. As of December 31, 2021, the Company continued to service both loans.

### **Affiliate Transaction Policy**

Our limited liability company agreement provides that any future transaction involving the Company and an affiliate must be approved by a majority vote of independent managers not otherwise interested in the transaction upon a determination of such independent managers that the transaction is on terms no less favorable to the Company than could be obtained from an independent third party. An approval pursuant to this policy shall be set forth in the minutes of the Company and shall include a description of the transaction approved. The responsibility for reviewing and approving affiliate transactions has been delegated to the nominating and corporate governance committee of our board of managers, which is comprised entirely of independent managers.

Pursuant to our limited liability company agreement, we must provide the independent managers with access, at our expense, to our legal counsel or independent legal counsel, as needed.

### **Board of Managers Independence**

We have no securities listed for trading on a national securities exchange or in an automated inter-dealer quotation system of a national securities association, which has requirements that a majority of our board of managers be independent. For purposes of complying with the disclosure requirements of the Securities and Exchange Commission, we have adopted the definition of independence used by the New York Stock Exchange (NYSE). Under the NYSE's definition of independence, Messrs. Summers, Rauscher, and Sheldon each meet the definition of "independent."

## **ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES**

Our Audit Committee reviewed the audit services performed by Warren Averett for 2021 and 2020. The aggregate agreed-upon and billed fees for professional accounting services provided by Warren Averett, including the audit of our annual consolidated financial statements, for the years ended December 31, 2021 and 2020, are set forth in the table below.

	<b>2021</b>	<b>2020</b>
Audit Fees	\$ 149,000	\$ 128,000

For purposes of the preceding table, the professional fees are classified as follows:

Audit Fees — These are fees for professional services performed for the audit of our annual financial statements and the required review of our quarterly financial statements and other procedures performed by the independent auditors to be able to form an opinion on our consolidated financial statements. These fees also cover services that are normally provided by independent auditors in connection with statutory and regulatory filings or engagements, and services that generally only an independent auditor reasonably can provide, such as services associated with filing registration statements, periodic reports, and other filings with the SEC.

## Pre-Approval Policies

The Audit Committee charter imposes a duty on the Audit Committee to pre-approve all auditing services performed for us by our independent auditors, as well as all permitted non-audit services (including the fees and terms thereof) in order to ensure that the provision of such services does not impair the auditor's independence. In determining whether or not to pre-approve services, the Audit Committee considers whether the service is permissible under applicable SEC rules. The Audit Committee may, in its discretion, delegate one or more of its members the authority to pre-approve any services to be performed by our independent registered public accounting firm, provided such pre-approval is presented to the full audit committee at its next scheduled meeting.

All services rendered by Warren Averett for the year ended December 31, 2021 were pre-approved in accordance with the policies set forth above.

## PART IV

### ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) List of Documents Filed.

1. The list of the financial statements contained herein is set forth on page F-1 hereof.
2. All schedules for which provision is made in the applicable accounting regulations of the SEC are not required under the related instructions or are not applicable and therefore have been omitted.
3. The Exhibits filed in response to Item 601 of Regulation S-K are listed on the Exhibit Index below.

(b) See (a)3 above.

(c) See (a)2 above.

### ITEM 16. FORM 10-K SUMMARY

None.

### EXHIBIT INDEX

The following exhibits are included in this Annual Report on Form 10-K for the year ended December 31, 2021 (and are numbered in accordance with Item 601 of Regulation S-K).

<b>Exhibit No.</b>	<b>Name of Exhibit</b>
3.1	<a href="#"><u>Certificate of Conversion, incorporated by reference to Exhibit 3.1 to the Registrant's Registration Statement on Form S-1, filed on May 11, 2012, Commission File No. 333-181360</u></a>
3.2	<a href="#"><u>Certificate of Formation, incorporated by reference to Exhibit 3.2 to the Registrant's Registration Statement on Form S-1, filed on May 11, 2012, Commission File No. 333-181360</u></a>
3.3	<a href="#"><u>Second Amended and Restated Limited Liability Company Agreement, incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K, filed on November 13, 2017, Commission File No. 333-203707</u></a>
3.4	<a href="#"><u>Amendment No. 1 to Second Amended and Restated Limited Liability Company Agreement of the Registrant, incorporated by reference to Exhibit 3.4 to the Registrant's Quarterly Report on Form 10-Q, filed on May 9, 2019, Commission File No. 333-203707</u></a>
3.5	<a href="#"><u>Amendment No. 2 to Second Amended and Restated Limited Liability Company Agreement of the Registrant, incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K, filed March 31, 2020, Commission File No. 333-224557</u></a>

- 4.1 [Indenture Agreement dated March 22, 2019, incorporated by reference to Exhibit 4.1 to Post-Effective Amendment No. 1 to the Registrant's Registration Statement on Form S-1, filed on March 22, 2019, Commission File No. 333-224557](#)
- 4.2 [Amendment No. 1 to Indenture Agreement \(including Form of Note\) dated February 4, 2020, incorporated by reference to Exhibit 4.1 to the Registrant's Post-Effective Amendment No. 4, filed on February 4, 2020, Commission File No. 333-224557](#)
- 4.3 [Amendment No. 2 to Indenture Agreement \(including Form of Note\) dated July 27, 2021, incorporated by reference to Exhibit 4.1 to the Registrant's Post-Effective Amendment No. 8, filed on July 27, 2021, Commission File No. 333-224557](#)
- 10.1\* [Amended, Restated and Consolidated Credit Agreement dated January 27, 2022 by and between Shepherd's Finance, LLC, Benjamin Marcus Homes, L.L.C., Investor's Mark Acquisitions, LLC and Mark L. Hoskins](#)
- 10.2 [Open-End Mortgage dated December 30, 2011 between Benjamin Marcus Homes, L.L.C. and Shepherd's Finance, LLC, related to the Hamlets of Springdale, incorporated by reference to Exhibit 10.4 to the Registrant's Registration Statement on Form S-1, filed on May 11, 2012, Commission File No. 333-181360](#)
- 10.3 [Open-End Mortgage dated December 30, 2011 between Investor's Mark Acquisitions, LLC and Shepherd's Finance, LLC, related to the Tuscany Subdivision, incorporated by reference to Exhibit 10.5 to the Registrant's Registration Statement on Form S-1, filed on May 11, 2012, Commission File No. 333-181360](#)
- 10.4 [Commercial Guaranty dated December 30, 2011 by Mark L. Hoskins, Investor's Mark Acquisitions, LLC, and Benjamin Marcus Homes, L.L.C. in favor of Shepherd's Finance, LLC, incorporated by reference to Exhibit 10.6 to the Registrant's Registration Statement on Form S-1, filed on May 11, 2012, Commission File No. 333-181360](#)
- 10.5 [Amended and Restated Commercial Pledge Agreement dated December 30, 2011 by Investor's Mark Acquisitions, LLC and Benjamin Marcus Homes, L.L.C. in favor of Shepherd's Finance, LLC, incorporated by reference to Exhibit 10.7 to the Registrant's Registration Statement on Form S-1, filed on May 11, 2012, Commission File No. 333-181360](#)
- 10.6 [Assignment, Assumption, Amendment, and Restatement of Mortgage dated December 30, 2011 between 84 Financial, L.P., Shepherd's Finance, LLC, and Investor's Mark Acquisitions, LLC, incorporated by reference to Exhibit 10.8 to the Registrant's Registration Statement on Form S-1, filed on May 11, 2012, Commission File No. 333-181360](#)
- 10.7 [Promissory Note dated December 30, 2011 from Shepherd's Finance, LLC to 2007 Daniel M. Wallach Legacy Trust, incorporated by reference to Exhibit 10.10 to the Registrant's Registration Statement on Form S-1, filed on May 11, 2012, Commission File No. 333-181360](#)

- 10.8 [Promissory Note dated December 30, 2011 from Shepherd's Finance, LLC to Daniel M. Wallach and Joyce S. Wallach, incorporated by reference to Exhibit 10.11 to the Registrant's Registration Statement on Form S-1, filed on May 11, 2012, Commission File No. 333-181360](#)
- 10.9 [Commercial Pledge Agreement dated December 30, 2011 by Shepherd's Finance, LLC in favor of 2007 Daniel M. Wallach Legacy Trust and Daniel M. Wallach and Joyce S. Wallach, incorporated by reference to Exhibit 10.12 to the Registrant's Registration Statement on Form S-1, filed on May 11, 2012, Commission File No. 333-181360](#)
- 10.10 [Subordination of Mortgage dated September 27, 2013 between Benjamin Marcus Homes, LLC, Shepherd's Finance, LLC, and United Bank, Inc., incorporated by reference to Exhibit 10.16 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2013, filed on February 26, 2014, Commission File No. 333-181360](#)
- 10.11 [Series B Cumulative Redeemable Preferred Unit Purchase Agreement dated December 31, 2014 between Shepherd's Finance, LLC and Investor's Mark Acquisitions, LLC, incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed on January 6, 2015, Commission File No. 333-181360](#)
- 10.12 [Loan Purchase and Sale Agreement dated as of April 28, 2015 between Shepherd's Finance, LLC and Seven Kings Holdings, Inc., incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed on May 5, 2015, Commission File No. 333-181360](#)
- 10.13 [First Amendment to the Loan Purchase and Sale Agreement by and between Shepherd's Finance, LLC and S.K. Funding, Inc., dated November 19, 2015, incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed on November 24, 2015, Commission File No. 333-203707](#)
- 10.14 [Series B Cumulative Preferred Unit Purchase Agreement by and between Shepherd's Finance, LLC and Investor's Mark Acquisitions, LLC, dated December 28, 2015, incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed on December 31, 2015, Commission File No. 333-203707](#)

- 10.15 [Second Amendment to the Loan Purchase and Sale Agreement by and between Shepherd's Finance, LLC and S.K. Funding, LLC, dated as of February 19, 2016, incorporated by reference to Exhibit 10.4 to the Registrant's Current Report on Form 8-K, filed on February 25, 2016, Commission File No. 333-203707](#)
- 10.16 [Assignment of Mortgage from Shepherd's Finance, LLC to S.K. Funding, LLC, dated June 30, 2016, incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K, filed on July 7, 2016, Commission File No. 333-203707](#)
- 10.17 [Loan Purchase and Sale Agreement between Shepherd's Finance, LLC and Builder Finance, Inc., dated as of February 6, 2017, incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed on February 10, 2017, Commission File No. 333-203707](#)
- 10.18 [Confirmation Agreement between Shepherd's Finance, LLC, 1st Financial Bank USA, and Builder Finance, Inc., dated as of February 6, 2017, incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, filed on February 10, 2017, Commission File No. 333-203707](#)
- 10.19 [Sixth Amendment to the Loan Purchase and Sale Agreement between Shepherd's Finance, LLC and S.K. Funding, LLC, dated as of July 24, 2017, incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed on July 27, 2017, Commission File No. 333-203707](#)
- 10.20 [Line of Credit Agreement between Shepherd's Finance, LLC and Paul Swanson, dated as of October 23, 2017, incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed on October 27, 2017, Commission File No. 333-203707](#)
- 10.21 [Collateral Assignment of Notes and Documents from Shepherd's Finance, LLC to Paul Swanson, dated as of October 23, 2017, incorporated by reference to Exhibit 10.4 to the Registrant's Current Report on Form 8-K, filed on October 27, 2017, Commission File No. 333-203707](#)
- 10.22 [Master Loan Modification Agreement between Shepherd's Finance, LLC and Paul Swanson effective as of April 11, 2018, incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed on April 18, 2018, Commission File No. 333-203707](#)
- 10.23 [Secured Promissory Note from Shepherd's Finance, LLC to Paul Swanson dated as of October 23, 2017 and April 12, 2018, incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K, filed on April 18, 2018, Commission File No. 333-203707](#)
- 10.24 [First Amendment to Promissory Note by and among Shepherd's Finance, LLC and Daniel M. Wallach and Joyce S. Wallach, dated June 14, 2018, incorporated by reference to Exhibit 10.7 to the Registrant's Quarterly Report on Form 10-Q for the Quarterly Period Ended June 30, 2018, filed on August 9, 2018, Commission File No. 333-203707](#)
- 10.25 [First Amendment to Promissory Note by and among Shepherd's Finance, LLC and 2007 Daniel M. Wallach Legacy Trust, dated June 14, 2018, incorporated by reference to Exhibit 10.8 to the Registrant's Quarterly Report on Form 10-Q for the Quarterly Period Ended June 30, 2018, filed on August 9, 2018, Commission File No. 333-203707](#)



10.26	<a href="#"><u>Loan Modification Agreement by and between Shepherd's Finance, LLC and Paul Swanson, dated as of December 27, 2018, incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed on January 2, 2019, Commission File No. 333-203707</u></a>
10.27	<a href="#"><u>Loan Agreement by and between Shepherd's Finance, LLC and LCA Bank Corporation, dated May 5, 2020, incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q for the Quarterly Period Ended March 31, 2020, filed on May 11, 2020, Commission File No. 333-224557</u></a>
10.28	<a href="#"><u>Note from Shepherd's Finance, LLC in favor of LCA Bank Corporation, dated May 5, 2020, incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q for the Quarterly Period Ended March 31, 2020, filed on May 11, 2020, Commission File No. 333-224557</u></a>
10.29	<a href="#"><u>Loan Agreement dated February 5, 2021 by and between the Registrant and LCA Bank Corporation, incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed on February 11, 2021, Commission File No. 333-224557</u></a>
10.30	<a href="#"><u>Promissory Note dated February 5, 2021 from the Company in favor of LCA Bank Corporation, incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, filed on February 11, 2021, Commission File No. 333-224557</u></a>
21.1*	<a href="#"><u>Subsidiaries of Shepherd's Finance, LLC</u></a>
31.1*	<a href="#"><u>Certification of Principal Executive Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u></a>
31.2*	<a href="#"><u>Certification of Principal Financial Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u></a>
32.1*	<a href="#"><u>Certification of Principal Executive Officer, pursuant to 18 U.S.C. Section 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002</u></a>
32.2*	<a href="#"><u>Certification of Principal Financial Officer, pursuant to 18 U.S.C. Section 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002</u></a>
101.INS**	Inline XBRL Instance Document
101.SCH**	Inline XBRL Schema Document
101.CAL**	Inline XBRL Calculation Linkbase Document
101.DEF**	Inline XBRL Definition Linkbase Document
101.LAB**	Inline XBRL Label Linkbase Document
101.PRE**	Inline XBRL Presentation Linkbase Document
104	Inline XBRL Cover Page Interactive Data File

\* Filed herewith.

\*\* Pursuant to Regulation 406T of Regulation S-T, these Interactive data files are deemed not filed or part of a registration statement or prospectus for purposes of Section 11 or 12 of the Securities Act of 1933, as amended, or Section 18 of the Securities Exchange Act of 1934, as amended, and are otherwise not subject to liability.

## SIGNATURES

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

**SHEPHERD'S FINANCE, LLC**  
(Registrant)

Dated: March 10, 2022

By: /s/ Daniel M. Wallach

Daniel M. Wallach

CEO and Manager

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated:

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Daniel M. Wallach</u> Daniel M. Wallach	Chief Executive Officer and Manager (Principal Executive Officer)	March 10, 2022
<u>/s/ Catherine Loftin</u> Catherine Loftin	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	March 10, 2022
<u>/s/ Kenneth R. Summers</u> Kenneth R. Summers	Manager	March 10, 2022
<u>/s/ Eric A. Rauscher</u> Eric A. Rauscher	Manager	March 10, 2022
<u>/s/ Gregory L. Sheldon</u> Gregory L. Sheldon	Manager	March 10, 2022

**Supplemental Information to be Furnished with Reports Filed Pursuant to Section 15(d) of the Act by Registrants Which Have Not Registered Securities Pursuant to Section 12 of the Act**

No annual report relating to the fiscal year ended December 31, 2021 or proxy statement with respect to any annual or other meeting of security holders has been sent to security holders.

## INDEX TO FINANCIAL STATEMENTS

Audited Consolidated Financial Statements as of and for the years ended December 31, 2021 and 2020:	
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## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Managers and  
Members of Shepherd's Finance, LLC  
Jacksonville, Florida

### Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Shepherd's Finance, LLC as of December 31, 2021 and 2020 and the related consolidated statements of operations, changes in members' capital, and cash flows for the years then ended, and the related notes (collectively referred to as the consolidated financial statements). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of Shepherd's Finance, LLC as of December 31, 2021 and 2020, and the results of its operations and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

### Basis for Opinion

These consolidated financial statements are the responsibility of Shepherd's Finance, LLC's management. Our responsibility is to express an opinion on Shepherd's Finance, LLC's consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to Shepherd's Finance, LLC in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

*/s/ Warren Averett, LLC*

We have served as Shepherd's Finance, LLC's auditor since 2018.  
PCAOB #2226  
Birmingham, Alabama  
March 10, 2022

**Shepherd's Finance, LLC**  
**Consolidated Balance Sheets**  
**As of December 31, 2021, and 2020**

*(in thousands of dollars)*

	<b>2021</b>	<b>2020</b>
<b>Assets</b>		
Cash and cash equivalents	\$ 3,735	\$ 4,749
Accrued interest receivable	598	601
Loans receivable, net	46,943	46,405
Real estate investments	1,651	1,181
Foreclosed assets	2,724	4,449
Premises and equipment	875	903
Other assets	1,089	981
Total assets	<u>\$ 57,615</u>	<u>\$ 59,269</u>
<b>Liabilities and Members' Capital</b>		
Customer interest escrow	\$ 479	\$ 510
Accounts payable and accrued expenses	296	289
Accrued interest payable	2,464	3,158
Notes payable secured, net of deferred financing costs	20,016	22,959
Notes payable unsecured, net of deferred financing costs	27,713	26,978
PPP loan and EIDL advance	-	10
Due to preferred equity members	43	106
Total liabilities	<u>\$ 51,011</u>	<u>\$ 54,010</u>
Commitments and Contingencies (Note 11)		
<b>Redeemable Preferred Equity</b>		
Series C preferred equity	\$ 5,014	\$ 3,582
<b>Members' Capital</b>		
Series B preferred equity	1,720	1,630
Class A common (deficit) equity	(130)	47
Members' capital	<u>\$ 1,590</u>	<u>\$ 1,677</u>
Total liabilities, redeemable preferred equity and members' capital	<u>\$ 57,615</u>	<u>\$ 59,269</u>

The accompanying notes are an integral part of these consolidated financial statements.

**Shepherd's Finance, LLC**  
**Consolidated Statements of Operations**  
**For the years ended December 31, 2021 and 2020**

(in thousands of dollars)

	<b>2021</b>	<b>2020</b>
<b>Net Interest Income</b>		
Interest and fee income on loans	\$ 7,944	\$ 8,209
Interest expense:		
Interest related to secured borrowings	1,973	2,973
Interest related to unsecured borrowings	3,147	3,153
Interest expense	\$ 5,120	\$ 6,126
Net interest income	2,824	2,083
Less: Loan loss provision	588	1,805
Net interest income after loan loss provision	2,236	278
<b>Non-Interest Income</b>		
Gain on sale of foreclosed assets	\$ 166	\$ 160
Gain on foreclosure of assets	67	52
Gain on the extinguishment of debt	371	361
Impairment gains on foreclosed assets	-	91
Total non-interest income	\$ 604	\$ 664
Income	2,840	942
<b>Non-Interest Expense</b>		
Selling, general and administrative	\$ 1,873	\$ 2,185
Depreciation and amortization	53	85
Loss on the sale of foreclosed assets	92	102
Loss on foreclosure	47	54
Impairment loss on foreclosed assets	10	445
Total non-interest expense	2,075	2,871
<b>Net income (loss)</b>	<u>\$ 765</u>	<u>\$ (1,929)</u>
<b>Earned distribution to preferred equity holders</b>	<u>701</u>	<u>525</u>
<b>Net income (loss) attributable to common equity holders</b>	<u>\$ 64</u>	<u>\$ (2,454)</u>

The accompanying notes are an integral part of these consolidated financial statements.

**Shepherd's Finance, LLC**  
**Consolidated Statements of Changes in Members' Capital**  
**For the years ended December 31, 2021 and 2020**

<i>(in thousands of dollars)</i>	<b>2021</b>	<b>2020</b>
Members' capital, beginning balance	\$ 1,677	\$ 4,188
Net income (loss) less distributions to Series C preferred equity holders of \$533 and \$372	232	(2,301)
Contributions from Series B preferred equity holders	90	160
Earned distributions to Series B preferred equity holders	(168)	(153)
Distributions to common equity holders	(241)	(217)
Members' capital, ending balance	<u>\$ 1,590</u>	<u>\$ 1,677</u>

The accompanying notes are an integral part of these consolidated financial statements.

**Shepherd's Finance, LLC**  
**Consolidated Statements of Cash Flows**  
**For the years ended December 31, 2021 and 2020**

<i>(in thousands of dollars)</i>	<b>2021</b>	<b>2020</b>
<b>Cash flows from operations</b>		
Net income (loss)	\$ 765	\$ (1,929)
Adjustments to reconcile net income (loss) to net cash provided by operating activities		
Amortization of deferred financing costs	168	158
Provision for loan losses	588	1,805
Change in loan origination fees, net	99	87
Depreciation and amortization	53	85
Impairment of foreclosed assets, net	10	354
Gain on foreclosed assets	(67)	(52)
Gain on sale of foreclosed assets, net	(166)	(160)
Loss on foreclosed assets	47	54
Loss on sale of foreclosed assets	92	102
Gain on extinguishment of debt	(371)	(361)
Net change in operating assets and liabilities:		
Other assets	(133)	(831)
Accrued interest receivable	3	430
Customer interest escrow	(262)	(217)
Accrued interest payable	716	1,422
Accounts payable and accrued expenses	7	(177)
Net cash provided by operating activities	1,549	770
<b>Cash flows from investing activities</b>		
Loan originations and principal collections, net	(2,016)	3,814
Investment in foreclosed assets	(818)	(1,410)
Additions for construction in real estate investments	(670)	(41)
Deposits for construction in real estate investments	200	-
Proceeds from sale of foreclosed assets	3,418	3,697
Net cash provided by investing activities	114	6,060
<b>Cash flows from financing activities</b>		
Contributions from preferred B equity holders	90	160
Contributions from preferred C equity holders	1,000	300
Distributions to redeemable preferred equity holders	(101)	(49)
Distributions to common equity holders	(241)	(217)
Proceeds from secured note payable	9,319	12,927
Repayments of secured note payable	(12,420)	(18,379)
Proceeds from unsecured notes payable	9,088	10,103
Redemptions/repayments of unsecured notes payable	(9,655)	(9,018)
Proceeds from PPP loan and EIDL advance	361	371
Deferred financing costs paid	(118)	(162)
Net cash used in financing activities	(2,677)	(3,964)
Net change in cash and cash equivalents	(1,014)	2,866
<b>Cash and cash equivalents</b>		
Beginning of period	4,749	1,883
End of period	\$ 3,735	\$ 4,749
<b>Supplemental disclosure of cash flow information</b>		
Cash paid for interest	\$ 5,814	\$ 5,501
<b>Non-cash investing and financing activities</b>		
Earned by Series B preferred equity holders but not distributed to customer interest escrow	\$ 43	\$ 106
Earned by Series B preferred equity holders and distributed to customer interest escrow	\$ 231	\$ 83
Foreclosure of assets transferred from loans receivable, net	\$ 791	\$ 2,118
Earned but not paid distributions of Series C preferred equity holders	\$ 503	\$ 372
Secured and unsecured notes payable transfers	\$ 158	\$ 1,424
Accrued interest payable transferred to unsecured notes payable	\$ 1,410	\$ 797
Construction loans funded through the reduction of Secured LOC from affiliates	\$ 141	\$ -
Transfer of loan receivables to real estate investments	\$ -	\$ 1,140
PPP forgiveness in reduction of debt	\$ 371	\$ 361

The accompanying notes are an integral part of these interim condensed consolidated financial statements.



**Shepherd's Finance, LLC**  
**Notes to Consolidated Financial Statements**

Information presented throughout these notes to the consolidated financial statements is in thousands of dollars.

**1. Description of Business**

Shepherd's Finance, LLC and subsidiary (the "Company", "we", or "our") was originally formed as a Pennsylvania limited liability company on May 10, 2007. We are the sole member of one consolidating subsidiary, Shepherd's Stable Investments, LLC. The Company operates pursuant to its Second Amended and Restated Limited Liability Company Agreement by and among Daniel M. Wallach and the other members of the Company effective as of March 16, 2017, and as subsequently amended.

The Company extends commercial loans to residential homebuilders (in 20 states as of December 31, 2021) to:

- construct single family homes,
- develop undeveloped land into residential building lots, and
- purchase and improve for sale older homes.

**2. Summary of Significant Accounting Policies**

**Principles of Consolidation**

These consolidated financial statements include the consolidated accounts of the Company's subsidiary and reflect all adjustments (all of which are normal recurring accruals) which are, in the opinion of management, necessary for a fair presentation of the consolidated financial position, operating results, and cash flows for the periods. All intercompany balances and transactions have been eliminated.

**Use of Estimates**

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. It is reasonably possible that market conditions could deteriorate, which could materially affect our consolidated financial position, results of operations and cash flows. Among other effects, such changes could result in the need to increase the amount of our allowance for loan losses and impair our foreclosed assets.

**Operating Segments**

Financial Accounting Standards Board ("FASB") Accounting Standards Codification Topic ("ASC") 280, *Segment Reporting*, requires that the Company report financial and descriptive information about reportable segments and how these segments were determined. We determine the allocation of resources and performance of business units based on operating income, net income and operating cash flows. Segments are identified and aggregated based on products sold or services provided. Based on these factors, we have determined that the Company's operations are in one segment, commercial lending.

**Revenue Recognition**

Interest income generally is recognized on an accrual basis. The accrual of interest is generally discontinued on all loans past due 90 days or more. All interest accrued but not collected for loans that are placed on nonaccrual or charged off is reversed against interest income, unless management believes that the accrued interest is recoverable through liquidation of collateral. Interest received on nonaccrual loans is applied against principal. Interest on accruing impaired loans is recognized as long as such loans do not meet the criteria for nonaccrual status. Our construction loans charge a fee on the amount that we commit to lend, which is amortized over the expected life of each of those loans.

The Company records revenue when control of the promised services is transferred to the customer, in an amount that reflects the consideration we expect to be entitled to receive in exchange for those products or services. Our performance obligations to customers are primarily satisfied over time as the services are performed and provided to the customer.

### **Advertising**

Advertising costs are expensed as incurred and are included in selling, general and administrative. Advertising expenses were \$65 and \$85 for the years ended December 31, 2021 and 2020, respectively.

### **Cash and Cash Equivalents**

Management considers highly-liquid investments with original maturities of three months or less to be cash equivalents. The Company maintains its cash account in a deposit account which, at times, may exceed federally insured limits. The Company monitors this bank account and does not expect to incur any losses from such account.

### **Fair Value Measurements**

The Company follows the guidance of FASB ASC 825, *Financial Instruments* (ASC 825), and FASB ASC 820, *Fair Value Measurements* (ASC 820). ASC 825 permits entities to measure many financial instruments and certain other items at fair value. The objective is to improve financial reporting by providing entities with the opportunity to mitigate volatility in reported earnings caused by measuring related assets and liabilities differently without having to apply complex hedge accounting provisions. ASC 820 clarifies that fair value is an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. Under this guidance, fair value measurements are not adjusted for transaction costs. This guidance establishes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements).

### **Loans Receivable**

Loans are stated at the amount of unpaid principal, net of any allowances for loan losses, and adjusted for (1) the net unrecognized portion of direct costs and nonrefundable loan fees associated with lending, and (2) deposits made by the borrowers used as collateral for a loan and due back to the builder at or prior to loan payoff. The net amount of nonrefundable loan origination fees and direct costs associated with the lending process, including commitment fees, is deferred and accreted to interest income over the lives of the loans using a method that approximates the interest method.

A loan is classified as nonaccrual, and the accrual of interest on such loan is discontinued, when the contractual payment of principal or interest becomes 90 days past due. In addition, a loan may be placed on nonaccrual at any other time management has serious doubts about further collectability of principal or interest according to the contractual terms, even though the loan is currently performing. A loan may remain on accrual status if it is in the process of collection or well-secured (i.e., the loan has sufficient collateral value). Loans are restored to accrual status when the obligation is brought current or has performed in accordance with the contractual terms for a reasonable period of time and the ultimate collectability of the total contractual principal and interest is no longer in doubt.

A loan is considered impaired when, based on current information and events, it is probable that the Company will be unable to collect the scheduled payments of principal or interest when due according to the contractual terms of the loan agreement. Impaired loans, or portions thereof, are charged off when deemed uncollectible. Once a loan is 90 days past due, management begins a workout plan with the borrower or commences its foreclosure process on the collateral.

### **Allowance for Loan Losses**

The allowance for loan losses is maintained at a level believed adequate by management to absorb probable losses inherent in the loan portfolio.

The Company establishes a collective reserve for all loans which are not more than 60 days past due at the end of each quarter. This collective reserve includes both a quantitative and qualitative analysis. In addition to historical loss information, the analysis incorporates collateral value, decisions made by management and staff, percentage of aging spec loans, policies, procedures, and economic conditions.

The Company individually analyzes for impairment all loans which are more than 60 days past due at the end of each quarter. We also review for impairment all loans to one borrower with greater than or equal to 10% of our total committed balances. If required, the analysis includes a comparison of estimated collateral value to the principal amount of the loan.

Impaired loans, if the value determined is less than the principal amount due (less any builder deposit), then the difference is included in the allowance for loan loss. As values change, estimated loan losses may be provided for more or less than the previous period, and some loans may not need a loss provision based on payment history. As for homes which are partially complete, the Company will appraise on an as-is and completed basis, and use the appraised value that more closely aligns with our planned method of disposal for the property.

### **Impaired Loans**

A loan is considered to be impaired when it is probable the Company will be unable to collect all principal and interest payments due in accordance with the contractual terms of the loan agreement.

### **Foreclosed Assets**

When a foreclosed asset is acquired in the settlement of a loan, the asset is recorded at the as-is fair value minus expected selling costs establishing a new cost basis. The gain or loss is recorded on our consolidated statement of operations as non-interest income or expense. If the fair value of the asset declines, a write-down is recorded through non-interest expense. While the initial valuation is done on an as-is basis, subsequent values are based on our plan for the asset. Assets which are not going to be improved are still evaluated on an as-is basis. Assets we intend to improve, are improving, or have improved are appraised based on the to-be-completed value, minus reasonable selling costs, and we adjust the portion of the appraised value related to construction improvements for the percentage of the improvements which have not yet been made. Subsequently, if a foreclosed asset has an increase in fair value the increase may be recognized up to the cost basis which was determined at the foreclosure date.

### **Deferred Financing Costs, Net**

Deferred financing costs consist of certain costs associated with financing activities related to the issuance of debt securities (deferred financing costs). These costs consist primarily of professional fees incurred related to the transactions. Deferred financing costs are amortized into interest expense over the life of the related debt. The deferred financing costs are reflected as a reduction in the unsecured notes offering liability.

### **Income Taxes**

The entities included in the consolidated financial statements are organized as pass-through entities under the Internal Revenue Code. As such, taxes are the responsibility of the members. Other significant taxes for which the Company is liable are recorded on an accrual basis.

The Company applies FASB ASC 740, *Income Taxes* (ASC 740). ASC 740 provides guidance for how uncertain tax positions should be recognized, measured, presented and disclosed in the consolidated financial statements and requires the evaluation of tax positions taken or expected to be taken in the course of preparing the Company's consolidated financial statements to determine whether the tax positions are "more-likely-than-not" to be sustained by the applicable tax authority. Tax positions with respect to income tax at the LLC level not deemed to meet the "more-likely-than-not" threshold would be recorded as a tax benefit or expense in the appropriate period. Management concluded that there are no uncertain tax positions that should be recognized in the consolidated financial statements. With few exceptions, the Company is no longer subject to income tax examinations for years prior to 2014.

The Company's policy is to record interest and penalties related to taxes in interest expense on the consolidated statements of operations. There have been no significant interest or penalties assessed or paid.

### **Reclassifications**

Certain reclassifications have been made to the prior period's financial statements and disclosures to conform to the current period's presentation.

## Risks and Uncertainties

The Company is subject to many of the risks common to the commercial lending and real estate industries, such as general economic conditions, decreases in home values, decreases in housing starts, increases in interest rates, and competition from other lenders. At December 31, 2021, our loans were significantly concentrated in a suburb of Pittsburgh, Pennsylvania, so the housing starts and prices in that area are more significant to our business than other areas until and if more loans are created in other markets.

## Concentrations

Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of loans receivable. Our concentration risks for our top three customers listed by geographic real estate market are summarized in the table below:

	December 31, 2021		December 31, 2020	
	Borrower City	Percent of Loan Commitments	Borrower City	Percent of Loan Commitments
Highest concentration risk	Pittsburgh, PA	26%	Pittsburgh, PA	29%
Second highest concentration risk	Orlando, FL	7%	Orlando, FL	12%
Third highest concentration risk	Spokane, WA	4%	Cape Coral, FL	6%

## Recent Accounting Pronouncements

The FASB issued ASU 2018-13, “*Fair Value Measurement (Topic 820): Disclosure Framework – Changes to the Disclosure Requirements for Fair Value Measurement*.” This ASU amends the disclosure requirements of Topic 820, Fair Value Measurement, to remove disclosure of transfers between Level 1 and Level 2 of the fair value hierarchy and to include disclosure of the range and weighted average used in Level 3 fair value measurements, among other amendments. The ASU applies to all entities that are required to provide disclosures about recurring or non-recurring fair value measurements. Amendments should be applied retrospectively to all periods presented, except for certain amendments, which should be applied prospectively for only the most recent interim or annual period presented in the initial fiscal year of adoption. ASU 2018-13 became effective for the Company on January 1, 2020. The adoption of ASU 2018-13 did not have a material impact on the Company’s consolidated financial statements.

ASU 2016-13, “*Financial Instruments-Credit Losses: Measurement of Credit Losses on Financial Instruments*”. The amendments in ASU 2016-13 introduce a new current expected credit loss (“CECL”) model for certain financial assets, including mortgage loans and reinsurance receivables. The new model will not apply to debt securities classified as available-for-sale. For assets within the scope of the new model, an entity will recognize as an allowance against earnings its estimate of the contractual cash flows not expected to be collected on day one of the asset’s acquisition. The allowance may be reversed through earnings if a security recovers in value. This differs from the current impairment model, which requires recognition of credit losses when they have been incurred and recognizes a security’s subsequent recovery in value in other comprehensive income. ASU 2016-13 also makes targeted changes to the current impairment model for available-for-sale debt securities, which comprise the majority of the Company’s invested assets. Similar to the CECL model, credit loss impairments will be recorded in an allowance against earnings that may be reversed for subsequent recoveries in value. The amendments in ASU 2016-13, along with related amendments in ASU No. 2018-19 - Codification Improvements to Topic 326, Financial Instruments-Credit Losses, are effective for annual and interim periods beginning after December 15, 2019 on a modified retrospective basis. For smaller reporting companies, the effective date for annual and interim periods is January 1, 2023. The Company is reviewing its policies and processes to ensure compliance with the requirements in ASU 2016-13.

### 3. Fair Value

Utilizing ASC 820, the Company has established a framework for measuring fair value under U.S. GAAP using a hierarchy, which requires the Company to maximize the use of observable inputs and minimize the use of unobservable inputs. Fair value measurements are an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. Three levels of inputs are used to measure fair value, as follows:

- Level 1 – quoted prices in active markets for identical assets or liabilities;
- Level 2 – quoted prices in active markets for similar assets and liabilities and inputs that are observable for the asset or liability; or
- Level 3 – unobservable inputs, such as discounted cash flow models or valuations.

A financial instrument's level within the fair value hierarchy is based on the lowest level of input that is significant to the fair value measurement.

#### Fair Value Measurements of Non-Financial Instruments on a Recurring Basis

The Company has no non-financial instruments measured at fair value on a recurring basis.

#### Fair Value Measurements of Non-Financial Instruments on a Non-recurring Basis

Certain assets are measured at fair value on a non-recurring basis when there is evidence of impairment. The fair values of impaired loans with specific allocations of the allowance for loan losses are generally based on recent real estate appraisals of the collateral less estimated cost to sell. Declines in the fair values of other real estate owned subsequent to their initial acquisitions are also based on recent real estate appraisals less selling costs.

#### **Impaired Loans**

The appraisals used to establish the value of impaired loans are based on similar properties at similar times; however due to the differences in time and properties, the impaired loans are classified as Level 3. There were 23 and 29 impaired loan assets as of December 31, 2021 and December 31, 2020, respectively.

#### **Foreclosed Assets**

Foreclosed assets (upon initial recognition or subsequent impairment) are measured at fair value on a non-recurring basis.

Foreclosed assets, upon initial recognition, are measured and reported at fair value less cost to sell. Each reporting period, the Company remeasures the fair value of its significant foreclosed assets. Fair value is based upon independent market prices, appraised values of the foreclosed assets or management's estimates of value, which the Company classifies as a Level 3 evaluation.

The following tables present the balances of non-financial instruments measured at fair value on a non-recurring basis as of December 31, 2021 and 2020:

	December 31, 2021		Quoted Prices in Active Markets for Identical Assets Level 1	Significant Other Observable Inputs Level 2	Significant Unobservable Inputs Level 3
	Carrying Amount	Estimated Fair Value			
Foreclosed assets	\$ 2,724	\$ 2,724	\$ –	\$ –	\$ 2,724
Impaired loans due to COVID-19, net	5,129	5,129	–	–	5,129
Other impaired loans, net	2,572	2,572	–	–	2,572
Total	<u>\$ 10,425</u>	<u>\$ 10,425</u>	<u>\$ –</u>	<u>\$ –</u>	<u>\$ 10,425</u>

	December 31, 2020		Quoted Prices in Active Markets for Identical Assets Level 1	Significant Other Observable Inputs Level 2	Significant Unobservable Inputs Level 3
	Carrying Amount	Estimated Fair Value			
Foreclosed assets	\$ 4,449	\$ 4,449	\$ –	\$ –	\$ 4,449
Impaired loans due to COVID-19, net	9,054	9,054	–	–	9,054
Other impaired loans, net	1,064	1,064	–	–	1,064
Total	<u>\$ 14,567</u>	<u>\$ 14,567</u>	<u>\$ –</u>	<u>\$ –</u>	<u>\$ 14,567</u>

#### Fair Value of Financial Instruments

ASC 825 requires disclosure of fair value information about financial instruments, whether or not recognized on the face of the balance sheet, for which it is practicable to estimate that value. The following methods and assumptions were used by the Company in estimating the fair value of its financial instruments:

#### **Cash and Cash Equivalents**

The carrying amount approximates fair value because of the short maturity of these instruments.

#### **Loans Receivable and Commitments to Extend Credit**

For variable rate loans that reprice frequently with no significant change in credit risk, estimated fair values of collateral are based on carrying values at both December 31, 2021 and 2020. Because the loans are demand loan and therefore have no known time horizon, there is no significant impact from fluctuating interest rates. For unfunded commitments to extend credit, because there would be no adjustment between fair value and carrying amount for the amount if actually loaned, there is no adjustment to the amount before it is loaned. The amount for commitments to extend credit is not listed in the tables below because there is no difference between carrying value and fair value, and the amount is not recorded on the consolidated balance sheets as a liability.

#### **Interest Receivable**

Interest receivable from our customers is due approximately 15 days after it is billed; therefore, the carrying amount approximates fair value for the years ended December 31, 2021 and 2020.

#### **Customer Interest Escrow**

The customer interest escrow does not yield interest to the customer, but the fair value approximates the carrying value at both December 31, 2021 and 2020 because: 1) the customer loans are demand loans, 2) it is not possible to estimate how long the escrow will be in place, and 3) the interest rate which could be used to discount this amount is negligible.

#### **Borrowings under Credit Facilities**

The fair value of the Company's borrowings under credit facilities is estimated based on the expected cash flows discounted using the current rates offered to the Company for debt of the same remaining maturities. As all of the borrowings under credit facilities or the Notes are either payable on demand or at similar rates to what the Company can borrow funds for today, the fair value of the borrowings is determined to approximate carrying value at both December 31, 2021 and 2020. The interest on our Notes offering is paid to our Note holders either monthly or at the end of their investment, compounded on a monthly basis. For the same reasons as the determination for the principal balances on the Notes, the fair value approximates the carrying value for the interest as well.

The table below is a summary of fair value estimates for financial instruments:

	<b>December 31, 2021</b>		<b>December 31, 2020</b>	
	<b>Carrying Amount</b>	<b>Estimated Fair Value</b>	<b>Carrying Amount</b>	<b>Estimated Fair Value</b>
<b>Financial Assets</b>				
Cash and cash equivalents	\$ 3,735	\$ 3,735	\$ 4,749	\$ 4,749
Loans receivable, net	46,943	46,943	46,405	46,405
Accrued interest on loans	598	598	601	601
<b>Financial Liabilities</b>				
Customer interest escrow	479	479	510	510
Notes payable secured, net	20,016	20,016	22,959	22,959
Notes payable unsecured, net	27,713	27,713	26,978	26,978
Accrued interest payable	2,464	2,464	3,158	3,158

#### 4. Real Estate Investment Assets

During June 2020, the Company acquired two lots from a borrower in exchange for the transfer of loans secured by those lots. The Company extinguished the principal balance for the loans on the lots in the amount of \$640 and in addition, paid a \$500 management fee for the development of homes on certain of the Company's lots that were previously carried as loan receivables. The management fee was paid through reducing the principal balance on a current loan receivable with the borrower.

The following table is a roll forward of real estate investment assets:

	<b>December 31, 2021</b>	<b>December 31, 2020</b>
Beginning balance	\$ 1,181	\$ –
Transfers from loans	–	1,140
Deposits from real estate investments	(200)	–
Additions for construction/development	670	41
Ending balance	<u>\$ 1,651</u>	<u>\$ 1,181</u>

#### 5. Financing Receivables

Financing receivables are comprised of the following as of December 31, 2021 and 2020:

	<b>December 31, 2021</b>	<b>December 31, 2020</b>
Loans receivable, gross	\$ 50,763	\$ 50,449
Less: Deferred loan fees	(1,143)	(1,092)
Less: Deposits	(934)	(1,337)
Plus: Deferred origination costs	305	353
Less: Allowance for loan losses	<u>(2,048)</u>	<u>(1,968)</u>
Loans receivable, net	<u>\$ 46,943</u>	<u>\$ 46,405</u>

The allowance for loan losses at December 31, 2021 was \$2,048 which primarily consisted of \$163 for loans without specific reserves, \$342 for loans with specific reserves, \$60 for special mention loans and \$1,483 for specific reserves due to the impact of COVID-19. During the year ended December 31, 2021, we incurred \$509 in direct charge offs.

The allowance for loan losses at December 31, 2020 was \$1,968, of which \$151 is related to loans without specific reserves. The Company recorded specific reserves for loans impaired due to impacts from COVID-19 of \$1,532, special mention loans of \$120 and impaired loans not due to impacts from COVID-19 of \$165. During the year ended December 31, 2020, we incurred \$72 in direct charge offs.

## Commercial Construction and Development Loans

### Construction Loan Portfolio Summary

As of December 31, 2021, we have 66 borrowers, all of whom borrow money for the purpose of building new homes. The loans typically involve funding of the lot and a portion of construction costs, for a total of between 50% and 70% of the completed value of the new home. As the home is built during the course of the loan, the loan balance increases. The loans carry an interest rate of 3% above our cost of funds. In addition, we charge a 5% loan fee. The cost of funds was 10.91% as of December 31, 2021 and the interest rate charged to most customers was 13.91%. The loans are demand loans. Most have a deposit from the builder during construction to help offset the risk of partially built homes, and some have an interest escrow to offset payment of monthly interest risk.

The following is a summary of the loan portfolio to builders for home construction loans as of December 31, 2021 and 2020:

Year	Number of States	Number of Borrowers	Number of Loans	Value of Collateral <sup>(1)</sup>	Commitment Amount	Gross Amount Outstanding	Loan to Value Ratio <sup>(2)</sup>	Loan Fee
2021	20	66	224	\$ 98,935	\$ 66,008	\$ 43,106	67% <sup>(3)</sup>	5%
2020	21	67	213	\$ 86,268	\$ 61,714	\$ 42,219	72%	5%

(1) The value is determined by the appraised value.

(2) The loan to value ratio is calculated by taking the commitment amount and dividing by the appraised value.

(3) Represents the weighted average loan to value ratio of the loans.

### Real Estate Development Loan Portfolio Summary

The following is a summary of our loan portfolio to builders for land development as of December 31, 2021 and 2020:

Year	Number of States	Number of Borrowers	Number of Loans	Gross Value of Collateral <sup>(1)</sup>	Commitment Amount <sup>(3)</sup>	Gross Amount Outstanding	Loan to Value Ratio <sup>(2)</sup>	Interest Spread
2021	6	12	15	\$ 12,464	\$ 9,095	\$ 7,657	61% <sup>(4)</sup>	varies
2020	5	8	9	\$ 11,628	\$ 10,815	\$ 8,230	71%	7%

(1) The value is determined by the appraised value adjusted for remaining costs to be paid. A portion of this collateral is \$1,720 and \$1,630 as of December 31, 2021 and 2020, respectively, of preferred equity in our Company. In the event of a foreclosure on the property securing these loans, the portion of our collateral that is preferred equity might be difficult to sell, which may impact our ability to recover the loan balance. In addition, a portion of the collateral value is estimated based on the selling prices anticipated for the homes.

(2) The loan to value ratio is calculated by taking the outstanding amount and dividing by the appraised value calculated as described above.

(3) The commitment amount does not include letters of credit and cash bonds.

(4) Represents the weighted average loan to value ratio of the loans.

## Credit Quality Information

The following table presents credit-related information at the “class” level in accordance with FASB ASC 310-10-50, *Disclosures about the Credit Quality of Finance Receivables and the Allowance for Credit Losses*. A class is generally a disaggregation of a portfolio segment. In determining the classes, the Company considered the finance receivable characteristics and methods it applies in monitoring and assessing credit risk and performance.



The following table summarizes finance receivables by the risk ratings that regulatory agencies utilize to classify credit exposure and which are consistent with indicators the Company monitors. Risk ratings are reviewed on a regular basis and are adjusted as necessary for updated information affecting the borrowers' ability to fulfill their obligations.

The definitions of these ratings are as follows:

- Pass – finance receivables in this category do not meet the criteria for classification in one of the categories below.
- Special mention – a special mention asset exhibits potential weaknesses that deserve management's close attention. If left uncorrected, these potential weaknesses may, at some future date, result in the deterioration of the repayment prospects.
- Classified – a classified asset ranges from: 1) assets that are inadequately protected by the current sound worth and paying capacity of the borrower, and are characterized by the distinct possibility that some loss will be sustained if the deficiencies are not corrected to 2) assets with weaknesses that make collection or liquidation in full unlikely on the basis of current facts, conditions, and values. Assets in this classification can be accruing or on non-accrual depending on the evaluation of these factors.

Finance Receivables – By risk rating:

	<b><u>December 31, 2021</u></b>	<b><u>December 31, 2020</u></b>
Pass	\$ 38,893	\$ 35,544
Special mention	2,344	3,089
Classified – accruing	–	–
Classified – nonaccrual	9,526	11,816
Total	<b><u>\$ 50,763</u></b>	<b><u>\$ 50,449</u></b>

Finance Receivables – Method of impairment calculation:

	<b><u>December 31, 2021</u></b>	<b><u>December 31, 2020</u></b>
Performing loans evaluated individually	\$ 16,495	\$ 16,412
Performing loans evaluated collectively	24,742	22,221
Non-performing loans without a specific reserve	596	1,518
Non-performing loans with a specific reserve	8,930	10,298
Total evaluated collectively for loan losses	<b><u>\$ 50,763</u></b>	<b><u>\$ 50,449</u></b>

At December 31, 2021 and 2020, there were no loans acquired with deteriorated credit quality.

The following is a summary of our impaired non-accrual commercial construction loans as of December 31, 2021 and 2020:

	<b><u>December 31, 2021</u></b>	<b><u>December 31, 2020</u></b>
Unpaid principal balance (contractual obligation from customer)	\$ 10,035	\$ 11,888
Charge-offs and payments applied	(509)	(72)
Gross value before related allowance	9,526	11,816
Related allowance	(1,825)	(1,698)
Value after allowance	<b><u>\$ 7,701</u></b>	<b><u>\$ 10,118</u></b>

## 6. Foreclosed Assets

Roll forward of foreclosed assets for the years ended December 31, 2021 and 2020:

	December 31, 2021	December 31, 2020
Beginning balance	\$ 4,449	\$ 4,916
Additions from loans	791	2,118
Additions for construction/development	818	1,410
Sale proceeds	(3,418)	(3,697)
Loss on foreclosure	(47)	(54)
Loss on sale of foreclosed assets	(92)	(102)
Gain on foreclosure	67	52
Gain on sale of foreclosed assets	166	160
Impairment loss on foreclosed assets	(10)	(290)
Impairment loss on foreclosed assets due to COVID-19	-	(64)
Ending balance	<u>\$ 2,724</u>	<u>\$ 4,449</u>

## 7. Borrowings

The following table displays our borrowings and a ranking of priority:

	Priority Rank	December 31, 2021	December 31, 2020
Borrowing Source			
Purchase and sale agreements and other secured borrowings	1	\$ 19,165	\$ 22,968
Secured line of credit from affiliates	2	859	-
Unsecured line of credit (senior)	3	1,250	500
EIDL advance	3	-	10
Other unsecured debt (senior subordinated)	4	1,053	1,800
Unsecured Notes through our public offering, gross	5	20,636	21,482
Other unsecured debt (subordinated)	5	4,693	2,747
Other unsecured debt (junior subordinated)	6	447	864
Total		<u>\$ 48,103</u>	<u>\$ 50,371</u>

The following table shows the maturity of outstanding debt as of December 31, 2021:

Year Maturing	Total Amount Maturing	Public Offering	Other Unsecured	Secured Borrowings
2022	\$ 28,238	\$ 7,074	\$ 1,945	\$ 19,219
2023	5,060	3,475	1,514	71
2024	8,716	5,002	3,587	127
2025	5,565	5,085	398	82
2026 and thereafter	524	-	-	524
Total	<u>\$ 48,103</u>	<u>\$ 20,636</u>	<u>\$ 7,444</u>	<u>\$ 20,023</u>

## Secured Borrowings

### Loan Purchase and Sale Agreements

We have two loan purchase and sale agreements where we are the seller of portions of loans we create. The two purchasers are Builder Finance, Inc. ("Builder Finance") and S.K. Funding, LLC ("S.K. Funding"). Generally, the purchasers buy between 50% and 75% of each loan sold. They receive interest rates ranging from our cost of funds to the interest rate charged to the borrower (interest rates were between 6% and 11% for both 2021 and 2020). The purchasers generally do not receive any of the loan fees we charge. We have the right to call some of the loans sold, with some restrictions. Once sold, the purchaser must fund their portion of the loans purchased. We service the loans. Also, there are limited put options in some cases, whereby the purchaser can cause us to repurchase a loan. The loan purchase and sale agreements are recorded as secured borrowings.

In March 2018, we entered into the Seventh Amendment (the “Seventh Amendment”) to our Loan Purchase and Sale Agreement with S.K. Funding. The purpose of the Seventh Amendment was to allow S.K. Funding to purchase a portion of the Pennsylvania Loans.

The timing of the Company’s principal and interest payments to S.K. Funding under the Seventh Amendment, and S.K. Funding’s obligation to fund the Pennsylvania Loans, vary depending on the total principal amount of the Pennsylvania Loans outstanding at any time, as follows:

- If the total principal amount exceeds \$1,000, S.K. Funding must fund the amount between \$1,000 and less than or equal to \$4,500.
- If the total principal amount is less than \$4,500, then the Company will also repay S.K. Funding’s principal as principal payments are received on the Pennsylvania Loans from the underlying borrowers in the amount by which the total principal amount is less than \$4,500 until S.K. Funding’s principal has been repaid in full.
- The interest rate accruing to S.K. Funding under the Seventh Amendment is 10.5% calculated on a 365/366-day basis.

The Seventh Amendment had a term of 24 months and automatically renews for additional six-month terms unless either party gives written notice of its intent not to renew at least six months prior to the end of a term. S.K. Funding will have a priority position as compared to the Company in the case of a default by any of the borrowers.

In April 2021, we entered into the Eleventh Amendment (the “Eleventh Amendment”) to our Loan Purchase and Sale Agreement with S.K. Funding. The purpose of the Eleventh Amendment was to allow a principal increase to \$2,000 from the original \$1,000 in the Tenth Amendment dated January 2019. In addition, if the collateral value drops then an unsecured portion of \$400 may be used until the collateral is increased back to \$2,000.

The Eleventh Amendment has a term of 12 months and will automatically renew for an additional six-month term unless either party gives written notice of its intent not to renew at least five months prior to the end of a term. S.K. Funding will have a priority position as compared to the Company in the case of a default by any of the borrowers.

#### Lines of Credit

##### *Lines of Credit with Mr. Wallach and His Affiliates*

During June 2018, we entered into the First Amendment to the line of credit with our Chief Executive Officer and his wife (the “Wallach LOC”) which modified the interest rate on the Wallach LOC to generally equal the prime rate plus 3%. The interest rate for the Wallach LOC was 6.25% as of December 31, 2021 and 2020. As of December 31, 2021, and 2020, the amount outstanding pursuant to the Wallach LOC was \$0. The maximum amount outstanding on the Wallach LOC is \$1,250 and the loan is a demand loan.

During June 2018, we also entered into the First Amendment to the line of credit with the 2007 Daniel M. Wallach Legacy Trust, which is our CEO’s trust (the “Wallach Trust LOC”) which modified the interest rate on the Wallach Trust LOC to generally equal the prime rate plus 3%. The interest rate for this borrowing was 6.25% as of December 31, 2021 and 2020. There were no amounts borrowed against the Wallach Trust LOC as of December 31, 2021 and 2020. The maximum amount outstanding on the Wallach Trust LOC is \$250 and the loan is a demand loan.

##### *Line of Credit with William Myrick*

During June 2018, we entered into a line of credit agreement (the “Myrick LOC Agreement”) with our Executive Vice President (“EVP”), William Myrick. Pursuant to the Myrick LOC Agreement, Mr. Myrick provides us with a line of credit (the “Myrick LOC”) with the following terms:

- Principal not to exceed \$1,000;
- Secured by a lien against all of our assets;
- Cost of funds to us of prime rate plus 3%; and
- Due upon demand.

As of December 31, 2021 and 2020, the amount outstanding pursuant to the Myrick LOC was \$859 and \$0, respectively. For the years ended December 31, 2021 and 2020, interest expense was \$6 and \$19, respectively.

##### *Line of Credit with Shuman*

During July 2017, we entered into a line of credit agreement (the “Shuman LOC Agreement”) with Steven K. Shuman, which is now held by Cindy K. Shuman. Pursuant to the Shuman LOC Agreement, Shuman provides us with a revolving line of credit (the “Shuman LOC”) with the following terms:

- Principal not to exceed \$1,325;
- Secured with assignments of certain notes and mortgages;
- Cost of funds to us of 10%; and
- Due in July 2022, but will automatically renew for additional 12-month periods, unless either party gives notice to not renew.

As of December 31, 2021 and 2020, the amount outstanding pursuant to the Shuman LOC was \$125 and \$1,325, respectively. Interest expense was \$77 and \$135 for the years ended December 31, 2021 and 2020, respectively.

During December 2021, the full Swanson LOC was assigned to Judith Swanson, a trustee of the 2021 Income Trust.

### *Line of Credit with Swanson*

During December 2018, we entered into a Master Loan Modification Agreement (the “Swanson Modification Agreement”) with Paul Swanson which modified the line of credit agreement between us and Mr. Swanson dated October 23, 2017. Pursuant to the Swanson Modification Agreement, Mr. Swanson provides us with a revolving line of credit (the “Swanson LOC”) with the following terms:

- Principal not to exceed \$7,000;
- Secured with assignments of certain notes and mortgages;
- Cost of funds to us of 6%; and
- Due in July 2022, but will automatically renew for additional 12-month periods, unless either party gives notice to not renew.

The Swanson LOC was fully borrowed as of December 31, 2021 and 2020. Interest expense was \$619 and \$709 for the years ended December 31, 2021 and 2020, respectively.

During December 2021, the full Swanson LOC was assigned to Judith Swanson, as trustee of a trust.

### *New Lines of Credit*

During 2020 and 2019, we entered into five line of credit agreements (the “New LOC Agreements”). Pursuant to the New LOC Agreements, the lenders provide us with revolving lines of credit with the following terms:

- Principal not to exceed \$6,063;
- Secured with assignments of certain notes and mortgages; and
- Terms generally allow the lenders to give one month notice after which the principal balance of a New LOC Agreement will reduce to a zero over the next six months.

The total balance of the New LOC Agreements was \$2,909 and \$4,159 as of December 31, 2021 and 2020, respectively. Interest expense was \$262 and \$341 for the year ended December 31, 2021 and 2020, respectively.

### *Mortgage Payable*

During January 2018, we entered into a commercial mortgage on our office building with the following terms:

- Principal not to exceed \$660;
- Interest rate at 5.07% per annum based on a year of 360 days; and
- Due in January 2033.

The principal amount of the Company’s commercial mortgage was \$604 and \$619 as of December 31, 2021 and 2020, respectively. For the years ended December 31, 2021 and 2020, interest expense was \$32 and \$33, respectively.

### *Community Loan*

During June 2020, we entered into a business loan agreement with Community Bank (“Community Loan”) with the following terms:

- Principal not to exceed \$362;
- First principal payment due July 2023;
- Secured by certain of our foreclosed assets;
- Interest rate at 3.8% per annum based on a year of 360 days; and
- Due in July 2025.

The principal amount for the Community Loan was \$217 and \$362 as of December 31, 2021 and 2020, respectively. Interest expense for the years ended December 31, 2021 and 2020 was \$11 and \$8, respectively.

### *Secured Deferred Financing Costs*

The Company had secured deferred financing costs of \$7 and \$8 as of December 31, 2021 and 2020, respectively.

### *Secured Borrowings Secured by Loan Assets*

Borrowings secured by loan assets are summarized below:

	<b>December 31, 2021</b>		<b>December 31, 2020</b>	
	<b>Book Value of Loans which Served as Collateral</b>	<b>Due from Shepherd's Finance to Loan Purchaser or Lender</b>	<b>Book Value of Loans which Served as Collateral</b>	<b>Due from Shepherd's Finance to Loan Purchaser or Lender</b>
<b>Loan Purchaser</b>				
Builder Finance	\$ 4,847	\$ 2,969	\$ 7,981	\$ 5,919
S.K. Funding	8,084	5,500	4,551	3,898
<b>Lender</b>				
Shuman	566	125	1,916	1,325
Jeff Eppinger	3,328	1,500	2,206	1,500
Hardy Enterprises, Inc.	-	-	1,590	1,000
Gary Zentner	-	-	424	250
R. Scott Summers	1,475	847	1,259	847
John C. Solomon	1,139	563	743	563
Swanson	9,803	6,841	9,381	6,685
<b>Total</b>	<b>\$ 29,242</b>	<b>\$ 18,345</b>	<b>\$ 30,051</b>	<b>\$ 21,987</b>

### **Unsecured Borrowings**

#### *Unsecured Notes through the Public Offering ("Notes Program")*

The effective interest rate on borrowings through our Notes Program at December 31, 2021 and 2020 was 9.28% and 10.38%, respectively, not including the amortization of deferred financing costs. There are limited rights of early redemption. We generally offer four durations at any given time, ranging from 12 to 48 months. The following table shows the roll forward of our Notes Program:

	<b>December 31, 2021</b>	<b>December 31, 2020</b>
Gross notes outstanding, beginning of period	\$ 21,482	\$ 20,308
Notes issued	7,876	7,691
Note repayments / redemptions	(8,722)	(6,517)
Gross Notes outstanding, end of period	20,636	21,482
Less deferred financing costs, net	(367)	(416)
Notes outstanding, net	<u>\$ 20,269</u>	<u>\$ 21,066</u>

The following is a roll forward of deferred financing costs:

	<b>December 31, 2021</b>	<b>December 31, 2020</b>
Deferred financing costs, beginning balance	\$ 942	\$ 786
Additions	119	156
Deferred financing costs, ending balance	<u>\$ 1,061</u>	<u>\$ 942</u>
Less accumulated amortization	(694)	(526)
Deferred financing costs, net	<u>\$ 367</u>	<u>\$ 416</u>

The following is a roll forward of the accumulated amortization of deferred financing costs:

	<u>December 31, 2021</u>	<u>December 31, 2020</u>
Accumulated amortization, beginning balance	\$ 526	\$ 370
Additions	168	165
Disposals	-	(9)
Accumulated amortization, ending balance	<u>\$ 694</u>	<u>\$ 526</u>

#### *Other Unsecured Debts*

Our other unsecured debts are detailed below:

Loan	Maturity Date	Interest Rate <sup>(1)</sup>	Principal Amount Outstanding as of	
			December 31, 2021	December 31, 2020
Unsecured Note with Seven Kings Holdings, Inc.	Demand <sup>(2)</sup>	9.5%	\$ 500	\$ 500
Unsecured Line of Credit from Swanson	July 2022	6.0%	159	315
Unsecured Line of Credit from Builder Finance, Inc.	January 2023	10.0%	750	-
Subordinated Promissory Note	December 2021	10.5%	-	146
Subordinated Promissory Note	April 2024	10.0%	100	100
Subordinated Promissory Note	April 2021	10.0%	-	174
Subordinated Promissory Note	August 2022	11.0%	200	200
Subordinated Promissory Note	March 2023	11.0%	-	169
Subordinated Promissory Note	February 2023	10.0%	600	-
Subordinated Promissory Note	June 2023	10.0%	400	-
Subordinated Promissory Note	February 2021	11.0%	-	600
Subordinated Promissory Note	Demand	5.0%	-	-
Subordinated Promissory Note	December 2022	5.0%	3	3
Subordinated Promissory Note	December 2023	11.0%	20	20
Subordinated Promissory Note	February 2024	11.0%	20	20
Subordinated Promissory Note	January 2025	10.0%	15	-
Subordinated Promissory Note	November 2021	9.5%	-	200
Subordinated Promissory Note	November 2023	9.5%	200	-
Subordinated Promissory Note	October 2024	10.0%	700	700
Subordinated Promissory Note	December 2024	10%	100	100
Subordinated Promissory Note	April 2025	10.0%	202	-
Subordinated Promissory Note	July 2023	8.0%	100	-
Subordinated Promissory Note	July 2024	5.0%	1,500	-
Subordinated Promissory Note	September 2023	7.0%	94	-
Subordinated Promissory Note	October 2023	7.0%	100	-
Subordinated Promissory Note	December 2025	8.0%	180	-
Senior Subordinated Promissory Note	March 2022 <sup>(3)</sup>	10.0%	334	352
Senior Subordinated Promissory Note	March 2022 <sup>(4)</sup>	1.0%	-	728
Junior Subordinated Promissory Note	March 2022 <sup>(4)</sup>	22.5%	-	417
Senior Subordinated Promissory Note	October 2024 <sup>(5)</sup>	1.0%	720	720
Junior Subordinated Promissory Note	October 2024 <sup>(5)</sup>	20.0%	447	447
			<u>\$ 7,444</u>	<u>\$ 5,911</u>

(1) Interest rate per annum, based upon actual days outstanding and a 365/366-day year.

(2) Due six months after lender gives notice.

(3) Lender may require us to repay \$20 of principal and all unpaid interest with 10 days' notice.

(4) These notes were issued to the same holder and, when calculated together, yield a blended rate of 11% per annum.

(5) These notes were issued to the same holder and, when calculated together, yield a blended rate of 10% per annum.

During February 2021, we borrowed approximately \$361 pursuant to the Paycheck Protection Program (“PPP”), created under the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act. The PPP is intended to provide loans to qualified businesses to cover payroll and certain other identified costs. Funds from the loan may only be used for certain purposes, including payroll, benefits, rent, and utilities. All or a portion of the loan may be forgivable, as provided by the terms of the PPP.

In August 2021, the full principal amount of the PPP loan or \$361 and the accrued interest were forgiven by the U.S. Small Business Administration.

During April 2020, the Company received a grant under the Economic Injury Disaster Loan Emergency Advance (the “EIDL Advance”) of \$10 which was used for payroll and other certain operating expenses.

In February 2021, the full EIDL Advance of \$10 and accrued interest were forgiven by the U.S. Small Business Administration.

In May 2020, we borrowed approximately \$361 pursuant to the PPP which was used for payroll and other certain operating expenses.

In November 2020, the full principal amount of the PPP loan or \$361 and the accrued interest were forgiven by the U.S. Small Business Administration.

## 8. Redeemable Preferred Equity

Series C cumulative preferred units (“Series C Preferred Units”) are redeemable by the Company at any time, upon a change of control or liquidation, or by the investor any time after 6 years from the initial date of purchase. The Series C Preferred Units have a fixed value which is their purchase price and preferred liquidation and distribution rights. Yearly distributions of 12% of the Series C Preferred Units’ value (provided profits are available) will be made on a quarterly basis. This rate may increase if any interest rate on our public Notes offering rises above 12%. Dividends may be reinvested monthly into additional Series C Preferred Units. The Series C Preferred Units have the same preferential rights as the Series B Preferred Units as more fully described in the following note.

Roll forward of redeemable preferred equity:

	<u>December 31, 2021</u>	<u>December 31, 2020</u>
Beginning balance	\$ 3,582	\$ 2,959
Additions from new investment	1,000	300
Distributions	(101)	(49)
Additions from reinvestment	533	372
Ending balance	<u>\$ 5,014</u>	<u>\$ 3,582</u>

The following table shows the earliest redemption options for investors in Series C Preferred Units as of December 31, 2021:

<u>Year Maturing</u>	<u>Total Amount Redeemable</u>
2024	\$ 3,244
2025	402
2026	309
2027	1,059
Total	<u>\$ 5,014</u>

## 9. Members' Capital

There are currently two classes of equity units outstanding that the Company classifies as Members' Capital: Class A common units ("Class A Common Units") and Series B cumulative preferred units ("Series B Preferred Units").

As of December 31, 2021, the Class A Common Units are held by eight members, all of whom have no personal liability. All Class A common members have voting rights in proportion to their capital account. There were 2,629 Class A Common Units outstanding at both December 31, 2021 and 2020.

The Series B Preferred Units were issued to the Hoskins Group through a reduction in a loan issued by the Hoskins Group to the Company. In December 2015, the Hoskins Group agreed to purchase 0.1 Series B Preferred Units for \$10 at each closing of a lot to a third party in the Hamlets and Tuscany subdivision. As of December 31, 2021, and 2020, the Hoskins Group owns a total of 17.2 and 16.3 Series B Preferred Units, respectively, which were issued for a total of \$1,720 and \$1,630, respectively.

Both the Series B Preferred Units and the Series C Preferred Units have the same basic preferential status as compared to the Class A Common Units, and are *pari passu* with each other. Both Preferred Unit types include a liquidation preference and a dividend preference, as well as a 12-month recovery period for a shortfall in earnings.

There are two additional authorized unit classes: Class A preferred units and Class B profit units. Once Class B profit units are issued, the existing Class A common units will become Class A preferred units. Class A Preferred units will receive preferred treatment in terms of distributions and liquidation proceeds.

## 10. Related Party Transactions

The Company has two loan agreements with Daniel M. Wallach, our CEO, and his wife, pursuant to which they provide the Company with the Wallach LOC and the Wallach Trust LOC. The agreements lay out the terms under which those members can lend money to us, providing that we desire the funds and the members wish to lend. The interest rate on both the Wallach LOC and the Wallach Trust LOC generally equals prime plus 3%, as more fully described in Note 7.

The Company has a loan agreement with William Myrick, our EVP (the "Myrick LOC Agreement"), pursuant to which Mr. Myrick provides us with the Myrick LOC. The Myrick LOC Agreement lays out the terms under which Mr. Myrick can lend money to us, providing that we desire the funds and Mr. Myrick wish to lend. The rate on the Myrick LOC generally equals prime plus 3%, as more fully described in Note 7.

Two of our managers each own 1% of our Class A common units. Barbara L. Harshman, our EVP of Operations, owns 2% of our Class A common units. Mr. Myrick owns 15.3% of our Class A common units.

Mr. Wallach and his wife's parents own 18.05 and 1.45 of our Series C Preferred Units, respectively. One of our managers, Gregory L. Sheldon, owns 6.31 of our Series C Preferred Units.

The Company has a Senior Subordinated Promissory Note with the parents of Mr. Wallach for \$333. The interest rate on the promissory note is 10% and the lender may require us to repay \$20 of principal and all unpaid interest with 10 days' notice, as more fully described in Note 7.

A son of one of our Managers is a minor participant in the Shuman LOC, which is more fully described in Note 7. In addition, Mr. Summers' son is a lender to the Company pursuant to a New LOC Agreement, with principal not to exceed \$2,000.

In September 2018, the Company sold three loans to Mr. Wallach at their gross loans receivable balance of \$281, and as such, no gain or loss was recognized on the sale. Cash received was \$104 and the remaining purchase price was funded through a \$177 reduction in the principal balance of the line of credit extended by Mr. Wallach to the Company. The Company continued to service these loans.



In June 2019, two of the loans owned by Mr. Wallach paid off for approximately \$375. Additionally, during June 2019, Mr. Wallach purchased two additional loans for approximately \$286. During December 2019, Mr. Wallach sold one of his loans to Mr. Myrick for approximately \$254.

In July 2020, the Company purchased two loans at cost from Mr. Wallach for approximately \$198. As of December 31, 2021, no loans serviced by the Company were owned by Mr. Wallach.

In September 2018, we sold two loans to Mr. Myrick at their gross loan's receivable balance of \$394 and as such, no gain or loss was recognized on the sale. Cash received was \$94 and the remaining purchase price was funded through a \$300 reduction in the principal balance of the line of credit extended by Mr. Myrick to the Company.

In addition, during 2019 Mr. Myrick purchased two loans from the Company for approximately \$456. In December 2019, Mr. Myrick purchased one loan from Mr. Wallach for approximately \$254. During 2020 and 2019, one and four of Mr. Myrick's loans paid off for approximately \$245 and \$765, respectively.

During 2021, Mr. Myrick purchased two loans for approximately \$141 and both loans were serviced by the company as of December 31, 2021.

During 2021, one of our managers purchased one loan from the Company for \$405 and the loan was serviced by the company as of December 31, 2021.

The Hoskins Group has a preferred equity interest in the Company. In addition, the Company has issued Series B Preferred Units to the Hoskins Group, as more fully described in Note 9 – Members' Capital.

The Company has accepted investments under the Notes Program from employees, managers, members, and relatives of managers and members, with \$3,989 outstanding at December 31, 2021. For the years ended December 31, 2021 and 2020 our investments from affiliates which exceed \$120 through our Notes Program and other unsecured debt are detailed below:

Investor	Relationship to Shepherd's Finance	Amount invested as of December 31,		Weighted average interest rate as of December 31, 2021	Interest earned during the year ended December 31,	
		2021	2020		2021	2020
Eric A. Rauscher	Independent Manager	\$ 475	\$ 475	10.00%	\$ 36	\$ 47
Capture HD Inc., Defined Benefit Plan & Trust	Sponsor is Brother of Employee	1,000	1,000	11.00%	149	142
David Wallach Living Trust	Father of Member	571	577	10.23%	58	60
Gregory L. Sheldon	Independent Manager	577	1,053	10.22%	59	112
Joseph Rauscher	Parent of Independent Manager	195	195	11.00%	21	14
Kenneth Summers	Independent Manager	100	189	4.00%	1	20
Schultz Family Revocable Living Trust	Trustee is Mother-in- Law of Member	148	132	9.88%	15	14
Kimberly Bedford	Employee	148	160	10.88%	16	16
Lamar Sheldon	Parent of Independent Manager	253	217	9.03%	23	21

## 11. Commitments and Contingencies

In the normal course of business there may be outstanding commitments to extend credit that are not included in the consolidated financial statements. Commitments to extend credit are agreements to lend to a customer as long as there is no violation of any condition established in the contract. Commitments generally have fixed expiration dates or other termination clauses and may require payment of a fee. Since many of the commitments are expected to expire without being drawn upon and some of the funding may come from the earlier repayment of the same loan (in the case of revolving lines), the total commitment amounts do not necessarily represent future cash requirements. The financial instruments involve, to varying degrees, elements of credit and interest rate risk in excess of amounts recognized in the consolidated financial statements. The Company evaluates each customer's creditworthiness on a case-by-case basis. Unfunded commitments to extend credit, which have similar collateral, credit risk and market risk to our outstanding loans, were \$22,902 and \$19,495 at December 31, 2021 and 2020, respectively.

## 12. Selected Quarterly Condensed Consolidated Financial Data (Unaudited)

Summarized unaudited quarterly condensed consolidated financial data for the quarters of 2021 and 2020 are as follows:

	Quarter 4 2021	Quarter 3 2021	Quarter 2 2021	Quarter 1 2021	Quarter 4 2020	Quarter 3 2020	Quarter 2 <sup>(1)</sup> 2020	Quarter 1 2020
Net interest income (loss)	\$ 958	\$ 830	\$ 625	\$ 411	\$ 932	\$ 389	\$ (228)	\$ 990
Loan loss provision	246	83	45	214	140	70	1,560	35
Net interest income (loss) after loan loss provision	712	747	580	197	792	319	(1,788)	955
Gain on sale of foreclosed assets	1	64	13	88	22	135	3	—
Gain on foreclosure of assets	67	—	—	—	52	—	—	—
Impairment gains on foreclosed assets	—	—	—	—	(4)	95	—	—
Gain on extinguishment of debt	—	361	—	10	361	—	—	—
SG&A expense	415	483	438	537	648	367	462	708
Depreciation and amortization	12	12	13	16	22	21	21	21
Loss on sale of foreclosed assets	23	—	51	18	16	51	—	35
Loss on foreclosure of assets	47	—	—	—	52	2	—	—
Impairment loss on foreclosed assets	—	—	—	10	241	4	91	109
Net income (loss)	<u>\$ 283</u>	<u>\$ 677</u>	<u>\$ 91</u>	<u>\$ (286)</u>	<u>\$ 244</u>	<u>\$ 104</u>	<u>\$ (2,359)</u>	<u>\$ 82</u>

<sup>(1)</sup> During the quarter ended June 30, 2020, net interest income after loan loss provision was reduced due to COVID-19 by \$1,492. In addition, the Company wrote off \$469 of interest income directly related to COVID-19. During the quarter ended June 30, 2020, impairment loss on foreclosed assets of \$91 was due to the impact of COVID-19.

## 13. Non-Interest Expense Detail

The following table displays our selling, general and administrative expenses for the years ended December 31, 2021 and 2020:

	2021	2020
<b>Selling, general and administrative expenses</b>		
Legal and accounting	\$ 166	\$ 224
Salaries and related expenses	819	975
Board related expenses	99	99
Advertising	65	85
Rent and utilities	53	52
Loan and foreclosed asset expenses	348	498
Travel	154	140
Other	169	112
Total SG&A	<u>\$ 1,873</u>	<u>\$ 2,185</u>

## 14. Subsequent Events

Management of the Company has evaluated subsequent events through March 10, 2022, the date these consolidated financial statements were issued.

**Exhibit 10.1****AMENDED, RESTATED AND CONSOLIDATED CREDIT AGREEMENT**

This Amended, Restated and Consolidated Credit Agreement ("Agreement"), dated as of the 27<sup>th</sup> day of January, 2022, by and between BENJAMIN MARCUS HOMES, L.L.C., a Pennsylvania limited liability company ("BMH"), INVESTOR'S MARK ACQUISITIONS, LLC ("IMA"), a Delaware limited liability company and 339 JUSTABOUT LAND CO., LLC, a Pennsylvania limited liability company ("JUSTABOUT") (each a "Borrower Party" and collectively, the "Borrower Parties"), and Barrett Hoskins and Mark L. Hoskins, individuals residing in the Commonwealth of Pennsylvania (collectively, "Hoskins"),

AND

SHEPHERD'S FINANCE, LLC, a Pennsylvania limited liability company ("Lender").

**WITNESSETH:**

WHEREAS, on or about December 30, 2011, Lender, BMH and IMA entered into a certain Credit Agreement providing for the terms and conditions of three loan facilities between the parties ("Credit Agreement"); and

WHEREAS, on or about December 30, 2011, Lender made a revolving loan to BMH in the principal amount not to exceed FOUR MILLION ONE HUNDRED SIXTY-FOUR THOUSAND and 00/100 DOLLARS (\$4,164,000.00) evidenced by a certain Promissory Note of even date and even amount executed and delivered by BMH in favor of Lender ("BMH Note"); and

WHEREAS, on or about December 30, 2011, Lender assumed the rights and obligations as "Lender" pursuant to that certain Assignment, Amendment and Restatement of Promissory Note by IMA in favor of Lender dated as of the date hereof with a current principal balance of ONE MILLION SIX HUNDRED EIGHTY-SIX THOUSAND SEVEN HUNDRED SIXTY-SIX and 76/100 DOLLARS (\$1,686,766.76) to use for certain purposes as set forth herein ("IMA Note"); and

WHEREAS, since the date of the Credit Agreement, the parties have entered into a total of twenty-six (26) amendments, (collectively, the "Amendments");

WHEREAS, certain additional promissory notes were executed by certain Borrower Parties in favor of Lender of which the following remain outstanding:

- 1) A Promissory Note in the original principal amount of \$10,000.00, dated September 18, 2018 and executed and delivered by BMH in favor of Lender; and
- 2) A Promissory Note in the original principal amount of \$2,700,000.00, dated April 8, 2019 and executed and delivered by BMH in favor of Lender; and
- 3) A Promissory Note in the original principal amount of \$483,250.00, dated September 10, 2020 and executed and delivered by BMH in favor of Lender; and
- 4) A Promissory Note in the original principal amount of \$961,343.00, dated March 31, 2021, and executed and delivered by BMH in favor of Lender; and

- 5) A Promissory Note in the original principal amount of \$552,000.00, dated August 13, 2021, and executed and delivered by BMH in favor of Lender; and
- 6) An obligation limited to the maximum amount of the Note (as hereinafter defined) entered into on even date herewith, of JUSTABOUT and UPTOWN in favor of Lender to be consolidated with the above (hereinafter, collectively referred to with the BMH Note and the IMA Note as "the Original Notes").

WHEREAS, Lender has used the following letters of credit on behalf of the Borrower Parties which remain undrawn and open:

- 1) Letter of Credit Number 2018-155801 issued December 10, 2018 in the amount of \$84,296.30; and
- 2) Letter of Credit Number 2019-155820 issued February 11, 2019 in the amount of \$315,105.00; and
- 3) Letter of Credit Number 2019-082919 issued August 29, 2019 in the amount of \$108,540.00; and
- 4) Letter of Credit Number 2021-159852 issued March 15, 2021 in the amount of \$14,801.00; and
- 5) Letter of Credit Number 2020-156423 issued May 1, 2020 in the amount of \$199,890.00; and
- 6) Letter of Credit Number 2021-162152 issued December 14, 2021 in the amount of \$50,000.00.

WHEREAS, the following Mortgages (with associated Assignments of Rents and Leases (collectively, the "ALR") and Mortgaged Land remain as security for the Development Notes:

- 1) Open End Mortgage dated December 30, 2011 in the maximum amount of \$8,075,776.76, securing the Note in the principal amount of \$2,225,000.00, executed and delivered by IMA in favor of Lender on the real estate commonly known as Lot 13 Tuscany, Washington County, PA; and
- 2) Open End Mortgage dated December 30, 2011 in the maximum amount of \$1,686,766.76, securing the Note in the principal amount of \$4,164,000.00, executed and delivered by IMA in favor of Lender on the real estate commonly known as Lot 13 Tuscany, Washington County PA; and
- 3) Mortgage dated January 5, 2018 in the original principal amount of \$976,000.00 executed and delivered by BMH in favor of Lender on the real estate commonly known as Lots 603,622,623 and 626 Summerbrooke, North Strabane, PA 15317; and
- 4) Mortgage dated September 18, 2018 in the original principal amount of \$10,000.00 executed and delivered by White Column Investments, LLC in favor of Lender on the real estate commonly known as Lot 602 Hamlet, Peters Township, Washington County, PA; and
- 5) Mortgage dated April 8, 2019 in the original principal amount of \$2,700,000.00 executed and delivered by BMH in favor of Lender on the real estate commonly known as Lots 701-709, 7-12-716, 718 and 720 of the Adams Subdivision III, Eighty Four PA; and



- 6) Mortgage dated April 23, 2019 in the original principal amount of \$500,000.00 executed and delivered by BMH in favor of Lender on the real estate commonly known as Lot 367 Venango/631 Chilliwack Lane, Mars, PA; and
- 7) Mortgage dated September 10, 2020 in the original principal amount of \$483,250.00 executed and delivered by BMH in favor of Lender on the real estate commonly known as Lots 204 & 207 Mallard Pond, Baden, PA; and
- 8) Mortgage dated March 31, 2021 in the original principal amount of \$961,343.00 executed and delivered by BMH in favor of Lender on the real estate commonly known as Lots 22-29 Siena at St. Clair, Lucca Lane, Pittsburgh PA; and
- 9) Mortgage dated August 13, 2021 in the original principal amount of \$552,000.00 executed and delivered by BMH in favor of Lender on the real estate commonly known as Lots 1-14 Sugar Camp Rd, Peters Twp, PA (hereinafter referred to collectively with all of the above and the Tuscany II Mortgage below as the "Mortgages").

WHEREAS, Borrower Parties intend to execute, dated of even date with this Agreement, an Amended, Restated and Consolidated Revolving Demand Note in an amount not to exceed \$8,500,000.00 which will consolidate the Original Notes into a single promissory note (the "Note"), and further secured by a Mortgage dated of even date with this Agreement ("Tuscany II Mortgage"), on the real property described therein and commonly known as "Tuscany II".

WHEREAS, it is the Parties intention to consolidate the Credit Agreement and the Amendments into this Agreement,

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained and intending to be legally bound hereby, the parties hereto agree as follows:

#### **ARTICLE I.**

##### **DEFINITIONS**

1.01 Certain Definitions. In addition to other words and terms defined elsewhere in this Agreement, the following words and terms shall have the following meanings, respectively, unless the context otherwise clearly requires:

"Affiliate" shall mean any Person which directly or indirectly controls, or is controlled by, or is under common control with, any Borrower Party or Hoskins, and for each individual who is an Affiliate within the meaning of the foregoing, any other individual related to such Affiliate by consanguinity within the third degree or in a step or adoptive relationship within such third degree or related by affinity with such Affiliate or any such individual and any Person directly or indirectly controlled by any of the foregoing. The term "control" means the possession, directly or indirectly, or the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities or partnership interests, by contract or otherwise.

"Agreement" shall mean this Credit Agreement, as amended, modified or supplemented from time to time.

"BMH" shall mean Benjamin Marcus Homes, L.L.C., a Pennsylvania limited liability company, P333 Technology Drive, Suite 108, Canonsburg PA 15317.

"Borrower Party" shall mean each of BMH, IMA, JUSTABOUT and UPTOWN, and "Borrower Parties" shall mean BMH, IMA and JUSTABOUT collectively.

"Business Day" shall mean any day other than a Saturday, Sunday, public holiday under the laws of the Commonwealth of Pennsylvania.

"Code" shall mean the Internal Revenue Code of 1986 as amended along with rules, regulations, decisions and other official interpretations in connection therewith.

"Collateral" shall mean collectively all items and property described in Section 2.15

"Debt" shall mean collectively (A) all Indebtedness, whether of principal, interest, fees, expenses or otherwise, of either of the Borrower Parties to Lender, whether now existing or hereafter incurred including, but not limited to, future loans and advances, if any, under this Agreement, the Note, and the Loan Documents, as the same may from time to time be amended, together with any and all extensions, renewals, refinancings or refundings thereof in whole or in part; (B) all other obligations for the repayment of borrowed money, whether of principal, interest, fees, expenses or otherwise, of either of the Borrower Parties to Lender, now existing or hereafter incurred, whether under letters or advances of credit, lines of credit, other financing arrangements or otherwise (including, but not limited to, any obligations arising as a result of any overdrafts), whether or not related to this Agreement or the Development Notes, whether or not contemplated by Lender or either of the Borrower Parties on the date hereof and whether direct, indirect, matured or contingent, joint or several, or otherwise, together with any and all extensions, renewals, refinancings or refundings thereof in whole or in part; (C) all costs and expenses including, without limitation, to the extent permitted by law, reasonable attorneys' fees and legal expenses, incurred by Lender in the collection of any of the Indebtedness referred to in clauses (A) or (B) above, and amounts due and owing to Lender under this Agreement; and (D) any advances made by Lender for the maintenance, preservation, protection or enforcement of, or realization upon, any property or assets now or hereafter made subject to a mortgage, pledge, lien or security interest granted pursuant hereto or pursuant to this Agreement, or the Loan Documents or pursuant to any agreement, instrument or note relating to any of the Debt including, without limitation, advances for taxes, insurance, repairs and the like.

"Deposits" shall mean all deposits made by either of the Borrower Parties or Hoskins for the purpose of obtaining utility or other services on the Real Property, including but not limited to water, sewer and electrical services, or any other payments of a depository nature required by a township, county or other governmental entity.

"Disbursement" shall mean the Note, and each advance on the Note made by the Lender pursuant to this Agreement.



"Environmental Indemnity" shall mean, collectively, that certain Hazardous Substances Certificate and Indemnity Agreement given by the Borrower Parties in favor of Lender dated December 30, 2011, and as subsequently executed in conjunction with each of the Mortgages.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as in effect from time to time.

"ERISA Affiliate" shall mean a Person which is under control by a Borrower Party within the meaning of Section 414(b) or (c) of the Code.

"Event of Default" shall mean any of the Events of Default described in Section 7.01.

"IMA Mortgage" shall mean that certain Assignment, Assumption and Modification of Mortgage executed by IMA and Lender dated as of the date hereof conveying a second priority lien of the Tuscany Land, as further identified therein.

"Fixtures" shall mean all personal property now or hereafter owned by either of the Borrower Parties or Hoskins and now or hereafter affixed to, incorporated into or to be incorporated into, or used or useful in connection with, the Land or the Improvements, or any part thereof, all replacements thereof, additions thereto and substitutions therefor.

"GAAP" shall mean generally accepted accounting principles (as such principles may change from time to time) applied on a consistent basis (except for changes in application in which the Borrower Parties' independent certified public accountants concur).

"Guaranty" shall mean those certain Commercial Guaranties dated of even of date herewith given by Hoskins as guarantors of the Note

"Guarantor" or "Guarantors" shall mean, individually or collectively, Hoskins in their capacity as such under the Guaranty.

"IMA" shall mean Investor's Mark Acquisitions, LLC, a Delaware limited liability company, 124 Windermere Court, McMurray, Pennsylvania 15317.

"Improvements" shall mean all buildings and related improvements and amenities now or hereafter on the Land.

"Indebtedness" shall mean (i) all obligations for borrowed money (including, without limitation, all notes payable and drafts accepted representing extensions of credit, all obligations evidenced by bonds, debentures, notes or similar instruments, all obligations on which interest charges are customarily paid, all obligations under conditional sale or other title retention agreements and all obligations issued or assumed as full or partial payment for property, whether or not any such notes, drafts or obligations are obligations for borrowed money), including, but not limited to, the Development Notes, (ii) all obligations secured by any mortgage, lien, pledge, charge or security interest or encumbrance existing on property owned or acquired subject thereto, whether or not the obligations secured thereby shall have been assumed, (iii) all obligations to

repay amounts drawn down by beneficiaries of letters of credit, (iv) all indebtedness and other obligations for the payment or purchase of which a Borrower Party or Hoskins has agreed contingently or otherwise to advance or supply funds and (v) indebtedness represented by obligations under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP and the amount of such indebtedness shall be the capitalized amount of such obligations determined in accordance with such principles.

"Interest Escrow" shall mean the interest escrow account established by Lender pursuant to the Loan Documents.

"Land" or "Mortgaged Land" shall mean, collectively, all of the real estate interests described in the Mortgages.

"Law" shall mean any law (including common law), constitution, statute, treaty, regulation, rule, ordinance, order, injunction, writ, decree or award of any Official Body.

"Lender" is now Shepherd's Finance, LLC, a Delaware limited liability company, 13241 Bartram Park Blvd., Suite 2401, Jacksonville, FL, 32258, which is the original Lender through succession.

"Lender's Cost of Funds" shall mean the greater of five percent (5.0%) or the weighted average price paid by Lender on or in connection with all of its borrowed funds. Such weighted average price shall include interest rates, loan fees, legal fees and any and all other costs paid by Lender on its borrowed funds, and, in the case of funds borrowed by Lender from an Affiliate of Lender, the weighted average price paid by such Affiliate on or in connection with such borrowed funds.

"Letter of Credit" shall mean collectively as set forth in the above recitals.

"Lien" shall mean any mortgage, deed of trust, pledge, lien, security interest, charge or other encumbrance or security arrangement of any nature whatsoever including, but not limited to, any conditional sale or title retention arrangement, and any assignment, deposit arrangement or lease intended as, or having the effect of, security.

"Loans" shall mean the loans made by Lender to each of the Borrower Parties, or as otherwise advanced for the benefit of each of the Borrower Parties, under this Agreement and as further set forth in Section 2.01 hereof.

"Loan Account" shall mean that as set forth in Section 2.11 hereof.

"Loan Document" or "Loan Documents" shall mean singularly or collectively, as the context may require, (i) this Agreement, (ii) the Note; (iii) the ALR, (iv) the Mortgage (v) the Guaranty, (vi) the Pledge Agreement, (vii) this Agreement; (viii) the Letter of Credit and (ix) any and all documents assigned to Lender by 84 Financial, L.P. in connection with the IMA Note, and (xv) any and all other documents, instruments, certificates and agreements executed and/or delivered in connection with the Credit Agreement and the Credit Amendments, as any of them may be amended, modified, extended or supplemented from time to time.

"Loan Fees" shall mean the loan fees described in Section 2.09 hereof.



"North Strabane Property" shall mean that property as more specifically described in Mortgage dated January 5, 2018 in the original principal amount of \$976,000.00 executed and delivered by BMH in favor of Lender.

"Office," when used in connection with Lender, shall mean its designated office located at 13241 Bartram Park Blvd., Suite 2401, Jacksonville, FL, 32258, or such other office or offices as Lender may designate from time to time.

"Official Body" shall mean any government or political subdivision or any agency, authority, bureau, central bank, commission, department or instrumentality of either, or any court, tribunal, grand jury or arbitrator, in each case whether foreign or domestic.

"PBGC" shall mean the Pension Benefit Guaranty Corporation.

"Person" shall mean an individual, corporation, partnership, limited partnership, limited liability company, joint venture, trust, or unincorporated organization, or a government or any agency or political subdivision thereof.

"Plan" shall mean any plan, including single employer, multiple employer and multiemployer plans, subject to Title IV of ERISA and established or maintained for persons including employees or former employees of either of the Borrower Parties or their Affiliates.

"Pledge Agreement" shall mean that certain Amended and Restated Commercial Pledge Agreement made by BMH and IMA as grantors in favor of Lender dated December 30, 2011, as amended.

"Potential Default" shall mean any event or condition which with notice or passage of time or any combination of the foregoing would constitute an Event of Default.

"Raw Ground" shall mean those portions of the Land which, at any time, have not been subdivided into lots and which subdivision has not been approved by Lender.

"Real Property" shall mean the Land, the Improvements and the Fixtures.

"Reportable Event" shall mean any of the events set forth in Section 4043(b) of ERISA or the regulations thereunder, except any such event as to which the provision for thirty (30) days' notice to PBGC is waived under applicable regulations.

"Sugar Camp Property" shall be defined as the property more specifically described in the Mortgage dated August 13, 2021 in the original principal amount of \$552,000.00 executed and delivered by BMH in favor of Lender. "Termination Event" shall mean (i) a Reportable Event, (ii) the termination of a Single Employer Plan, or the treatment of a Single Employer Plan amendment as a termination of such Plan under Section 4041 of ERISA, or the filing of a notice of intent to terminate a Single Employer Plan, or (iii) the institution of proceedings to terminate a Single Employer Plan by the PBGC under Section 4042 of ERISA, or (iv) the appointment of a trustee to administer any Single Employer Plan.

"Tuscany Land" shall mean that certain tract or parcel of land more specifically described in the Open End Mortgage dated December 30, 2011 in the maximum amount of \$8,075,776.76, executed and delivered by IMA in favor of Lender. "Tuscany II Land" shall mean that certain tract or parcel of land more specifically described in the Open End Mortgage dated of even date, in the maximum amount of \$8,500,000, executed and delivered by JUSTABOUT in favor of Lender.

"UCC" shall mean the Uniform Commercial Code that is in effect on the date of this Agreement and as amended from time to time, of the state or states having jurisdiction with respect to all or any portion of the Collateral granted or assigned to Lender from time to time under or in connection with this Agreement and the other Loan Documents.

## ARTICLE II.

### LOANS

2.01 Loans. Subject to the terms and conditions and relying upon the representations and warranties in this Agreement and the other Loan Documents, Lender agrees to make or assume, as the case may be, loan or advances to the Borrower Parties as defined in this Agreement and as evidenced by the Note.

2.02 Interest Rates; Usury.

(a) Interest Rates.

(i) The principal amounts outstanding on the Note shall bear interest at a rate equal to Lender's Cost of Funds, plus seven percent (7.0%). Interest will be computed on the basis of a year of 365/366 days for actual days elapsed. The interest rate for all of calendar years 2021 and 2022 shall be reduced to COF plus 3% instead of COF plus 7%. Starting January 2023, the rate shall revert to COF plus 7%.

(b) Interest After Maturity or Default; Usury. After the principal amount of the Note accrued interest thereon, or any fees or any other sums payable thereunder shall become due and remain unpaid (whether upon demand by Lender, upon the occurrence of an Event of Default, by acceleration or otherwise), the amount thereof shall thereafter until paid in full bear interest at a rate which shall be two percent (2.0%) per annum (based on a year of 365/366 days, calculated for actual number of days elapsed) above the then-current rate(s) applicable to such notes. Such interest rate(s) shall apply to the entire outstanding principal balance of the notes. Upon the curing of such default, the interest rate on the notes shall revert to the initially agreed interest rate hereunder, effective as of the date on which said default is cured.

(c) Interest Rate Set by Law. In the event the rates of interest provided for in subsections (a) or (b) above are finally determined by any Official Body to exceed the maximum rate of interest permitted by any applicable usury or similar Laws, their or its application shall be suspended and there shall be charged instead the maximum rate of interest permitted by such Laws. If any payment of interest or in the nature of interest would cause the foregoing interest rate limitation to be exceeded, then such excess payment will be



credited as a payment of principal of any of the Development Notes, at Lender's option, unless either of the Borrower Parties notifies Lender in writing to return the excess payment to either of the Borrower Parties.

2.03 Disbursements. The net proceeds of any advances under the Note shall be disbursed via checks or electronic funds transfer to vendors directly, to the Borrower by wire transfer, or as directed in writing by the applicable and authorized Borrower Parties for the purposes set forth in Section 2.07 upon all of the terms and conditions herein being satisfied in the Lender's opinion.

2.04 Principal and Interest Payments. Borrowers will be billed shortly after the first of the month, and interest will be due on the 15<sup>th</sup> of that month.

(a) Release prices shall be determined by Lender in its sole discretion. . Release prices shall be applied by Lender as follows: eighty percent (80.0%) shall be applied as a payment of principal against the Indebtedness, as determined by Lender in its sole discretion, and twenty percent (20.0%) shall be applied to the balance of the Interest Escrow.

(b) Any funds received by either of the Borrower Parties or Hoskins from the Deposits shall be applied to the outstanding principal balance of any of the Indebtedness, as determined by Lender in its sole discretion.

(c) In addition to the foregoing, the aggregate amount outstanding on the Loans shall not exceed \$8,500,000.00.

(d) All principal, interest, outstanding fees, costs and other amounts due and owing is immediately due and payable at any time upon demand by Lender.

(e) Upon the closing of a lot sold by IMA in the Tuscany subdivision or any subdivisions thereof and each lot sold by BMH in the Hamlets of Springdale subdivision phases 3, 4 and 5 pursuant to the Credit Agreement, a Borrower Party shall pay \$10,000 to Lender for the purchase of 1/10<sup>th</sup> of a Series B Cumulative Redeemable Preferred Unit in Lender.

(f) Lender shall record all Series B Cumulative Redeemable Preferred Units purchases by a Borrower Party pursuant to the terms of the Series B Cumulative Redeemable Preferred Unit Purchase Agreement, which shall apply to all Mortgaged Land and serve as additional collateral for the Note.

2.05 Optional Prepayments. The Borrower Parties shall each have the right, at their option, to prepay the principal, interest or other amounts due from each of the Borrower Parties under this Agreement or under the Note in whole or in part at any time without premium or penalty. Prepayments will not, unless agreed to by Lender in writing, relieve either of the Borrower Parties of their obligation to continue to make payments as set forth herein, rather, prepayments will reduce the principal balance of the Indebtedness, as determined by Lender in its sole discretion.

2.06 Payments. All payments to be made in respect of principal, interest or other amounts due from each of the Borrower Parties under this Agreement or under the Note shall be payable on or before 2:00 o'clock p.m., McMurray, Pennsylvania, time, on the day when due without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived, and an action therefor shall immediately accrue. Such payments shall be made to Lender at its Office in U.S. dollar funds immediately available at such Office without setoff, counterclaim or other deduction of any nature. All such payments shall be applied at the option of Lender to accrued and unpaid interest, outstanding principal and other sums due under this Agreement in such order as Lender, in its sole discretion, shall elect.

2.07 Use of Net Proceeds; Development. The net proceeds of the Note shall be used for the purposes of deposits, land purchase, development of land into lots, fees, expenses, interest and any other items Lender, in its sole discretion, approves. For purposes of this Agreement, references to net proceeds shall mean the proceeds of the Loans, individually or collectively as the case may be, after deduction is made for the Loan Fees and the Interest Escrow as provided herein.

2.08 Releases; Prohibitions on Transfer.

(a) Notwithstanding anything herein to the contrary, neither the entirety of the Land nor any portion thereof will be released by Lender without the proper amount or amounts having been paid to reduce the aggregate amount outstanding on the Loans in accordance with this Agreement.

(b) Upon the payment of the release price for any portion of the Land, so long as all other terms and conditions contained herein shall have been satisfied, Lender shall take the proper steps to release its security interest in such portion of the Land, subject to the terms of Section 2.08(c) below.

(c) The transfer or attempted transfer by either of the Borrower Parties of any portion of the mineral rights or interests associated with the Land, including, but not limited to, oil and gas, is prohibited. This prohibition on transfer shall apply to all of the property contained in the Land as of the date of this Agreement and shall continue until the date that the Mortgages are all released in their entirety.

2.09 Loan Fees. The Borrower Parties agree to a loan fee of \$120,000, \$ 21,000.00 for Lender's legal fees and \$22,392.69 for accounting to be paid upon execution of this Agreement; and an additional annual fee to be charged on January 25<sup>th</sup> of each year, beginning in 2022 and each year thereafter, equal to Four Percent (4%) of the difference between maximum principal amount of the Note (currently \$8,500,000.00), as may be amended from time to time, and \$2,000,000.

2.10 Indemnity. The Borrower Parties and Hoskins shall jointly and severally indemnify Lender against any loss or expense which Lender has sustained or incurred as a consequence of any default by either of the Borrower Parties or Hoskins in the performance or observance of any covenant or condition contained in this Agreement, or under the Note, including, without limitation, any failure of either of the Borrower Parties to pay when due (by demand, upon maturity or otherwise) any principal, interest, commitment fees or any other amount due hereunder or under the Development Notes. If Lender sustains or incurs any such loss or out-of-



pocket expense, it shall from time to time notify the Borrower Parties and Hoskins of the amount determined in good faith by Lender (which determination shall be conclusive) to be necessary to indemnify Lender for such loss or expense. Such amount shall be due and payable by the Borrower Parties and Hoskins to Lender ten (10) Business Days after such notice is given and shall bear interest at the rate of seven percent (7.0%) per annum (based on a year of 365/366 days for actual number of days elapsed) from the due date until paid (before and after judgment).

2.11 Loan Account. Lender shall open and maintain on its books a loan account (the "Loan Account") with respect to repayments, prepayments, the computation and payment of interest and principal, and the computation and final payment of all other amounts due and sums paid to Lender hereunder. Except in the case of manifest error in computation, the Loan Account shall be conclusive and binding on the Borrower Parties as to the amount at any time due to the Lender from either of the Borrower Parties hereunder and under the Note.

2.12 Interest Escrow Account. Borrower will be billed shortly after the first of the month, and interest will be due on the 15<sup>th</sup> of that month. After the date hereof, the Interest Escrow shall be funded periodically with interest and distributions paid by Lender at Lender's sole discretion. Borrower Parties will have to pay interest if the Interest Escrow is depleted to zero, and Borrower Parties may have to pay a percentage of interest to prevent such depletion, at Lender's sole discretion.

2.13 Late Charge. Upon the occurrence of an Event of Default with respect to the payment of any installment of interest or principal on any I Note for more than ten (10) days after the said installment becomes due, in addition to making a payment of the installment due, the Borrower Party or Parties shall pay to Lender a late charge in an amount equal to the greater of (i) Twenty-Five and 00/100 Dollars (\$25.00) or (ii) five percent (5.0%) of any such overdue installment.

2.14 Financing Statements. The Borrower Parties authorize Lender to file a UCC financing statement or financing statements to perfect Lender's security interest. At Lender's request, the Borrower Parties additionally agree to sign all other documents that are necessary to perfect, protect, and continue Lender's security interest in the Collateral. The Borrower Parties will pay all filing fees, title transfer fees, and other fees and costs involved unless prohibited by law or unless Lender is required by law to pay such fees and costs. The Borrower Parties irrevocably appoint Lender to execute documents necessary to transfer title if there is a default. If either of the Borrower Parties change their name or address, or the name or address of any person granting a security interest under this Agreement changes, such Borrower Party will promptly notify the Lender of such change.

2.15 Collateral.

(a) The Note and all obligations of Borrower Parties hereunder shall be secured by the Mortgages, the ALR, the Guaranty, the Pledge Agreement, and any and all other Loan Documents executed with respect thereto, including, but not limited to, all documents assigned to Lender by 84 Financial, L.P.

(b) Cross-Collateralization. Borrower Parties and Hoskins acknowledge and agree that all of the Collateral described herein shall serve as additional Collateral for the Note, notwithstanding any term or terms of a Loan Document to the contrary, and that upon the occurrence of an Event of Default, Lender may proceed against any portion of the Collateral, at Lender's sole discretion.

(c) Assignment of Life Insurance Policy. **As additional collateral for the Note,** Lender is the assignee of a Life Insurance Policy for Mark L. Hoskins in the amount of \$4,000,000.00, issued by Prudential Insurance Company of America, the premiums of which are paid by Lender and Borrower Parties are responsible to reimburse Lender for fifty percent of the life insurance premiums.

2.16 Acknowledgment of Amounts Due. As of December 31, 2021, Borrower Parties and Hoskins acknowledges the Indebtedness due and owing under all the Loan Documents totals \$8,025,496.98, plus interest accruing from December 31, 2021, and, as applicable, late charges, penalties, and Lender advances, including, but not limited to Lender's attorney's fees and costs, and all other sums due under the Loan Documents. Further, the balance of the interest escrow account and the Series B Cumulative Redeemable Preferred Units as of December 31, 2021 are \$202,998.40 and \$1,720,000.00, respectively.

### **ARTICLE III.** **REPRESENTATIONS AND WARRANTIES**

The Borrower Parties and Hoskins hereby represent and warrant to Lender that:

3.01 Organization and Qualification. BMH and JUSTABOUT are Pennsylvania limited liability companies, UPTOWN is a Pennsylvania s-corporation, and IMA is a Delaware limited liability company, and all of the Persons executing Loan Documents on their behalf, are all duly organized, validly existing and in good standing under the laws of their jurisdiction of organization, and are duly qualified or licensed to do business, and are in good standing in all jurisdictions in which the ownership of their respective properties or the nature of their activities or both make such qualification or licensing necessary.

3.02 Authority; Power to Carry on Business; Licenses. The Borrower Parties, Hoskins, and the respective Persons executing Loan Documents on their behalf, have the power and authority to execute, deliver and perform the Loan Documents to which they are a party, to make the borrowing provided for herein, and to perform their respective obligations hereunder and under the other Loan Documents. All such action has been duly and validly authorized by all necessary proceedings on their respective parts. The Borrower Parties have all requisite power and authority to own and operate their respective properties and to carry on their businesses



as now conducted and as presently planned to be conducted. The Borrower Parties have all licenses, permits, consents and governmental approvals or authorizations necessary to carry on their respective businesses as now conducted and specifically in conjunction to the Mortgaged Land.

3.03 Execution and Binding Effect. The Loan Documents have been duly and validly executed and delivered by the parties thereto and, to the extent they are a party thereto, constitute legal, valid and binding obligations of the Borrower Parties and Hoskins, enforceable in accordance with the terms hereof and thereof.

3.04 Authorizations and Filings. No authorization, consent, approval, license, exemption or other action by, and no registration, qualification, designation, declaration or filing with, any Official Body is or will be necessary or advisable in connection with the execution and delivery, of the Loan Documents, the consummation of the transactions herein or therein contemplated, and the performance of or compliance with the terms and conditions hereof or thereof.

3.05 Absence of Conflicts. Neither the execution and delivery of the Loan Documents, the consummation of the transactions herein or therein contemplated, nor the performance of or compliance with the terms and conditions hereof or thereof will (a) violate any Law or any regulation, order, writ, injunction, or decree of any court or governmental instrumentality or agency, (b) conflict with or result in a breach of or a default under the organizational documents of the Borrower Parties, or any agreement or instrument to which any of such parties is a party or by which their properties (now owned or hereafter acquired) may be subject or bound or, (c) result in the creation or imposition of any Lien, charge or encumbrance upon any property (now owned or hereafter acquired) of any of such parties.

3.06 Ownership and Control. Schedule 3.06 to this Agreement states, as of the date hereof, the owners of the ownership interests of the Borrower Parties.

3.07 Managers of the Borrower Parties; Business. Schedule 3.07 to this Agreement states as of the date hereof the Persons authorized to execute the Loan Documents by the Borrower Parties. In addition, Schedule 3.07 to this Agreement describes the business of the Borrower Parties as presently conducted and as presently planned to be conducted.

3.08 Financial Information. The financial information provided by the Borrower Parties and Hoskins as of the date hereof is accurate and complete and, in the case of the Borrower Parties, has been prepared in accordance with GAAP consistently applied. There has been no adverse change in the financial condition, assets, properties, management, operations or business of the Borrower Parties or Hoskins since the date of such information. The Borrower Parties and Hoskins have made full and true disclosure of all pertinent financial and other information in connection with the transactions contemplated hereby.

3.09 No Event of Default; Compliance with Instruments. No event has occurred and is continuing, and no condition exists which constitutes an Event of Default or Potential Default. The Borrower Parties are not in violation of (i) any term of any organizational agreement nor (ii) any agreement or instrument to which they

are a party or by which they or any of their properties (now acquired or hereinafter acquired) may be subject or bound.

3.10 Litigation. There is no pending, contemplated or threatened proceeding by or before any Official Body against or affecting the Borrower Parties, Hoskins, or the Collateral which, if adversely decided, would have a material adverse effect on the financial condition, assets, properties, management, operations or business of the Borrower Parties or Hoskins, the ability of the Borrower Parties or Hoskins to perform their obligations under the Loan Documents, the leases and or subleases pertaining to the Mortgaged Land, or the Collateral.

3.11 Pension and Employee Benefit Plan Matters. The provisions of all deferred compensation, benefit, pension, profit sharing and other plans, if any, of the Borrower Parties which are subject to ERISA (the "Plans") comply in all respects with the requirements of ERISA. The Plans have not incurred any "accumulated funding deficiency" within the meaning of Section 302 of ERISA, if applicable, or Section 412 of the Code with respect to the most recent plan year ending on or prior to the date hereof, and each Borrower Party and its ERISA Affiliates have not incurred any liability on account of an "accumulated funding deficiency" with respect to the Plans. All contributions to the Plans required with respect to all plan years ending on or prior to the date hereof have been made, and the pro rata portion of the contribution with respect to the plan year in which the date hereof falls has been accrued on the respective financial statements of the Borrower Parties. The funding method used in connection with the Plans is acceptable under ERISA and the actuarial assumptions used in connection with funding the Plans, in the aggregate, are reasonable. No liability to PBGC has been incurred with respect to the Plans (except for the premium liability under Section 4007(a) of ERISA) nor has any event or circumstances occurred in connection with the Plans which would result in any liability to the PBGC on the part of the Borrower Parties or their ERISA Affiliates. No Reportable Event, within the meaning of Section 4043 of ERISA, has occurred with respect to the Plans, nor have the Plans been terminated in accordance with the procedures set forth in Sections 4041 or 4042 of ERISA or by operation of law. All premium payments with respect to the Plans to PBGC required as of the date hereof have been made. The Borrower Parties, their ERISA Affiliates, and to the best knowledge of the Borrower Parties and their ERISA Affiliates, any "party in interest" within the meaning of Section 3(14) of ERISA, have not engaged in any "prohibited transaction" within the meaning of Section 406(a) or (b) of ERISA or of Section 4975(c) of the Code, the occurrence of which would subject the Borrower Parties or their ERISA Affiliates to any liability or any tax which may be imposed by Section 4975 of the Code or Section 502(i) of ERISA, with respect to a Plan. No legal action involving a Plan is pending or threatened against the Borrower Parties or any of the fiduciaries of a Plan. The Plans have received determination letters from the Internal Revenue Service to the effect that each Plan is qualified under Section 401(a) of the Code and nothing has occurred since the receipt of the latest determination letters with respect to each Plan to adversely affect its continued qualification. the Borrower Parties and their ERISA Affiliates, have, for all periods ending on or prior to the date hereof, administered the Plans and each "employee welfare benefit plan," maintained by them, in all material respects in compliance with the reporting and disclosure requirements applicable thereto under ERISA, the Code or any other federal, state or local law. the Borrower Parties and their ERISA Affiliates do not contribute to a multiemployer pension plan, as such term is defined in Section 3(37) of ERISA, on behalf of any of their employees.



3.12 Title to Property. The Borrower Parties have good and marketable title in fee simple to all of the real property purported to be owned by the Borrower Parties and good and marketable title to all other property purported to be owned by the Borrower Parties which is securing the Loans, and that is otherwise reflected in the most recent financial statements referred to in Section 3.08 or submitted pursuant to Section 5.01, subject only to Liens not forbidden by Section 6.01 hereof.

3.13 Use of Net Proceeds. The net proceeds of the Note shall be used solely for the purposes set forth in Section 2.06.

3.14 Taxes. All tax returns required to be filed by the Borrower Parties have been properly prepared, executed and filed. All taxes, assessments, fees and other governmental charges upon the Borrower Parties or upon any of their respective properties, income, sales or franchises which are due and payable have been paid. The reserves and provisions for taxes on the books of the Borrower Parties are adequate for all open years and for their current fiscal period. The Borrower Parties do not know of any proposed additional assessment or basis for any material assessment for additional taxes (whether or not reserved against). The federal income tax liabilities of the Borrower Parties have been finally determined by the Internal Revenue Service, or the time for audit has expired, and all such liabilities (including all deficiencies assessed following audit) have been satisfied.

3.15 No Material Adverse Change. Since the date of the most recent financial statements referred to in Section 3.08, there has been no material adverse change in the financial condition, assets, properties, management, operations or business of the Borrower Parties or Hoskins.

3.16 Regulations U and X. The Borrower Parties will make no borrowing hereunder for the purpose of buying or carrying any "margin stock," as such term is used in Regulation U of the Board of Governors of the Federal Reserve System, as amended from time to time. The Borrower Parties own no "margin stock." The Borrower Parties are not engaged in the business of extending credit to others for such purpose, and no part of the proceeds of any borrowing hereunder will be used to purchase or carry any "margin stock" or to extend credit to others for the purpose of purchasing or carrying any "margin stock" in contravention of regulations U and X.

3.17 Compliance with Laws. The conduct by the Borrower Parties of their business as it is presently conducted does not violate any provision of any Law or, if such conduct does not violate a Law, such violation would not, together with all other such violations, have a material adverse effect on the financial condition or results of operations of the Borrower Parties, and the Borrower Parties have obtained all permits, licenses, consents and approvals of all Official Bodies or other third parties, including all consents and approvals, if any, under the Laws designed to protect the environment, which are required to conduct its business as it is presently conducted.

3.18 Licenses, Franchises. The Borrower Parties own or possess all of the patents, trademarks, service patents marks, trade names, copyrights, licenses, franchises, permits and rights with respect to the foregoing

necessary to own and operate their properties and to carry on their business as presently conducted without conflict with the rights of others. No individual patent or patent license is of material importance to their business and there is no reason to anticipate any material liability to the Borrower Parties in respect of any claim of infringement of any thereof.

3.19 Environmental Matters.

(a) The Borrower Parties and Hoskins warrant and represent that the Borrower Parties and Hoskins are not aware of any circumstances which would result in any material obligation binding upon the Borrower Parties or Hoskins under any Environmental Laws to investigate or remediate any Hazardous Substances in, on or under any parcel of the Real Property.

(b) All terms, conditions, representations, covenants and indemnities in the Environmental Indemnity are true and correct and in full force and effect as of the date hereof.

3.20 Solvency. After giving effect to the consummation of all the transactions contemplated hereby, the Borrower Parties and Hoskins (a) shall be able to pay their debts as they become due, (b) shall have funds and capital sufficient to carry on their business and all businesses in which they are about to engage and, (c) shall own property having a value both at fair valuation and at fair saleable value in the ordinary course of the Borrower Parties' and Hoskins' business greater than the amount required to pay its debts as they become due. The Borrower Parties and Hoskins shall not be rendered insolvent by the execution and delivery of this Agreement, the borrowing hereunder and/or the consummation of any transactions contemplated herein.

3.21 Accurate and Complete Disclosure, Continuing Representations and Warranties. No representation or warranty made by the Borrower Parties or Hoskins under this Agreement or any Loan Document and no statement made by the Borrower Parties or Hoskins in any financial statement (furnished pursuant to Sections 3.08 or 5.01 or otherwise), certificate, report, exhibit or document furnished by the Borrower Parties or Hoskins to Lender pursuant to or in connection with this Agreement is false or misleading in any material respect (including by omission of material information necessary to make such representation, warranty or statement not misleading). The Borrower Parties and Hoskins have disclosed to Lender in writing every fact which materially and adversely affects, or would materially and adversely affect, the financial condition, assets, properties, management, operations or business of the Borrower Parties or Hoskins or the ability of the Borrower Parties or Hoskins to perform their respective obligations under the Loan Documents and the leases and subleases pertaining to the Mortgaged Land. The representations and warranties are to survive the delivery of the Loan Documents and the making of all Disbursements hereunder until the Development Notes are paid in full and released.

**ARTICLE IV.**

**CONDITIONS OF LENDING**

The obligation of Lender to enter into this Agreement and to make any future loans or disbursements, if any, to the Borrower Parties, hereunder is subject to the accuracy, as of the date hereof, of the representations and warranties contained in the Loan Documents, to the performance by the Borrower Parties and Hoskins of their



obligations to be performed hereunder and thereunder on or before the date hereof, and to the satisfaction of the following further conditions:

4.01 Representations and Warranties, Events of Default and Potential Defaults. The representations and warranties contained in Article III shall be true on and as of the date of the date hereof and each Disbursement, with the same effect as though made on and as of such date. On the date of any Disbursement, no Event of Default and no Potential Default shall have occurred and be continuing or exist.

4.02 Proceedings and Incumbency. On the date of any future loan, there shall have been delivered to Lender, certificates of the Borrower Parties in form and substance reasonably satisfactory to Lender, dated the date thereof and signed on behalf of the Borrower Parties by their respective Persons authorized to execute this Agreement on their behalf certifying as to (a) true copies of the organizational documents of the Borrower Parties as in effect on such date, (b) true copies of all organizational actions taken by the Borrower Parties relative to the transactions contemplated by this Agreement, and (c) the names, true signatures and incumbency of all of the Persons authorized to execute and deliver any Loan Documents to which the Borrower Parties are a party. Lender may conclusively rely on such certificate.

4.03 Loan Documents. On the date hereof, this Agreement, to be executed by or at the date hereof shall have been executed and delivered to Lender and shall be in effect and all filings and recordings contemplated thereby shall have been made. The Borrower Parties shall also deliver such other instruments, documents and certificates as Lender or its counsel shall reasonably require.

4.04 Agreements Affecting the Mortgaged Land. There shall have been delivered a copy of any and all agreements, understandings, covenants and restrictions, with or relating to the Real Property, its owners or tenants, affecting the Borrower Parties.

4.05 Certificates of Insurance. Lender shall have received such certificates of insurance as Lender may require, in form and substance satisfactory to Lender, from insurers satisfactory to Lender evidencing the fulfillment of the requirements of Section 5.02 hereof.

4.06 Details, Proceedings and Documents. On the date hereof, all legal details and proceedings in connection with the transactions contemplated by this Agreement shall be reasonably satisfactory to Lender and its counsel and Lender shall have received and shall receive from time to time all such counterpart originals or certified or other copies of such documents and proceedings in connection with such transactions, in form and substance satisfactory to Lender, as Lender may from time to time request.

4.07 Other Documents and Conditions. As of the date hereof, Lender shall have received such other documents and conditions as may be required to be submitted to Lender by the terms of this Agreement or any Loan Document with respect to the transactions contemplated by this Agreement.

4.08 Fees and Expenses. The Borrower Parties shall have paid all fees and charges required for this Agreement, including legal fees, commitment fees, site inspection costs, costs, filing, recording and notary fees

and any other similar matters pertinent to this Agreement. Fees for recording shall be paid upon receipt of the invoice.

**ARTICLE V.**  
**AFFIRMATIVE COVENANTS**

The Borrower Parties and Hoskins covenant and agree with Lender as follows:

5.01 Reporting and Information Requirements.

(a) Federal Tax Returns. The Borrower Parties and Hoskins shall annually furnish to Lender as soon as practicable, and in any event on or before October 15 of each year, the federal tax returns of the Borrower Parties, including all schedules and attachments filed with such returns.

(b) Quarterly Financial Statements of the Borrower Parties. As soon as practicable, and in any event within thirty (30) days after the close of each fiscal quarter of the Borrower Parties, the Borrower Parties shall furnish to Lender consolidated financial statements of the Borrower Parties, prepared in accordance with GAAP.

(c) Weekly Meetings. At Lender's option, the Borrower Parties shall meet with Lender to review development of the Land, sales of lots or any other portion of the Land, conformity with the final development budget as approved by Lender, the balance of the Interest Escrow and the outstanding principal amount of the Development Notes, and any other matters arising out of or related to this Agreement.

(d) Notice of Event of Default. Promptly upon becoming aware of any Event of Default or Potential Default, the Borrower Parties shall give Lender notice thereof, together with a written statement of the Borrower Parties setting forth the details thereof and any action taken or contemplated to be taken by the Borrower Parties.

(e) Notice of Material Adverse Change. Promptly upon becoming aware thereof, the Borrower Parties and Hoskins shall give Lender notice with respect to any material adverse change in the financial condition, assets, properties, management, operations or business of the Borrower Parties or Hoskins.

(f) Notice of Proceedings. Promptly upon becoming aware thereof, the Borrower Parties and Hoskins shall give Lender notice of the commencement, existence or threat of all proceedings by or before any Official Body against or affecting the Borrower Parties or Hoskins, which, if adversely decided, would have an adverse effect on the financial condition, assets, properties, management, operations or business of the Borrower Parties or Hoskins.

(g) Visitation. Upon receipt of reasonable notice, the Borrower Parties and Hoskins shall permit such persons as Lender may designate to visit and inspect any of their properties to examine the books and records relevant thereto and take copies and extracts therefrom, and to discuss the affairs of the Borrower Parties and Hoskins with each of their agents, employees and independent accountants at such times and as often as Lender may reasonably request, at Lender's expense. The Borrower Parties and Hoskins hereby



authorize such agents, employees and independent accountants to discuss with Lender the affairs of the Borrower Parties and Hoskins, all at Lender's expense.

(h) Further Information. The Borrower Parties and Hoskins will promptly furnish to Lender such other information, in such form, as Lender may reasonably request from time to time.

5.02 Insurance. The Borrower Parties shall maintain, with financially sound and reputable insurers, general liability insurance with respect to its properties and businesses, against such liabilities, casualties and contingencies and of such types and in such amounts as is satisfactory to Lender and as is customary in the case of entities engaged in the same or a similar business or having similar properties in the same geographic area (including, if required by Lender, flood insurance). The Borrower Parties agree to provide Lender with thirty (30) days' advance notice of the termination of any such policy of insurance.

5.03 Maintenance of Properties. The Borrower Parties shall maintain or cause to be maintained in good repair, working order and condition the properties now or hereafter owned, leased or otherwise possessed by it and shall make or cause to be made all needful and proper repairs, renewals, replacements and improvements thereto so that the business carried on in connection therewith may be properly and advantageously conducted at all times.

5.04 Payment of Liabilities. The Borrower Parties shall pay or discharge:

(a) prior to the date on which penalties attach thereto, all taxes, assessments and other governmental charges or levies imposed upon it or any of its properties or income;

(b) on or prior to the date when due, all lawful claims of materialmen, mechanics, carriers, warehousemen, landlords and other like persons which, if unpaid, might result in the creation of a Lien upon any such properties;

(c) on or prior to the date when due, all other lawful claims which, if unpaid, might result in the creation of a Lien upon any such properties; and

(d) all other liabilities so that they are not in default, in the ordinary course of the Borrower Parties' business.

5.06 Compliance with Laws. The Borrower Parties and Hoskins shall comply with all applicable Laws, in all material respects.

5.07 Continuation of and Change in Business. The Borrower Parties shall continue to engage in the business and activities that they are presently engaged in. The Borrower Parties shall not engage in any other business or activities without obtaining the prior written consent of Lender.

5.08 Use of Net Proceeds. The Borrower Parties will use the net proceeds of the Development Notes for the purposes set forth in Section 2.06 hereof or otherwise authorized by Lender, in its sole discretion.

5.09 Lien Searches. Lender may, but shall not be obligated to, conduct lien searches of the Borrower Parties and their assets and properties, as Lender, in its sole discretion, may determine to be necessary.

5.10 Further Assurances. At any time and from time to time, upon Lender's request, the Borrower Parties and Hoskins shall make, execute and deliver, or cause to be made, executed and delivered, to Lender and where appropriate shall cause to be recorded or filed, and from time to time thereafter to be rerecorded and refiled at such time and in such offices and places as shall be deemed reasonably desirable by Lender, any and all such other Loan Documents, certificates and other documents as Lender may consider necessary or desirable in order to effectuate, complete or perfect and to continue and preserve the obligations of the Borrower Parties and Hoskins hereunder under the Development Notes and the Loan Documents and the Liens created thereby. Upon any failure by the Borrower Parties or Hoskins to do so, Lender may make, execute, record, file, rerecord or refile any and each such Loan Document, instrument, certificate and document for and in the name of the Borrower Parties or Hoskins.

5.11 Wages and Withholding Taxes. The Borrower Parties shall pay when due all wages and other compensation and all withholding taxes. The Borrower Parties shall create and fund a reserve for all withholding taxes for wages and other compensation which has been paid but as to which the taxes are not yet due. If such wages and other compensation are not paid when due and/or if such withholding taxes are not paid when due and/or a funded reserve is not created for withholding taxes which are owing for wages and other compensation which have been paid but as to which the taxes are not yet due, Lender may, but is not obligated to pay the Borrower Parties' wage, compensation and/or withholding tax liabilities and add such amounts so paid to the principal amounts due under Section 2.01 of this Agreement.

5.12 Preservation of Existence. The Borrower Parties shall maintain their limited liability company existence, rights and franchises in full force and effect in their jurisdictions of organization. The Borrower Parties shall qualify and remain qualified as a foreign limited liability company in each jurisdiction in which failure to receive or retain such qualification would have a material adverse effect on the financial condition, assets, properties, management, operations or business of the Borrower Parties.

## **ARTICLE VI.**

### **NEGATIVE COVENANTS**

The Borrower Parties and Hoskins covenant to Lender as follows:

6.01 Liens. Without the prior written consent of Lender, the Borrower Parties shall not at any time create, incur, assume or suffer to exist any Lien on or against any assets of the Borrower Parties or agree or become liable to do so except:

- (a) Liens in favor of Lender;
- (b) Liens arising from taxes, assessments, charges, levies or claims that are not yet due, that remain payable without penalty;



(c) Deposits or pledges to secure workers' compensation, unemployment insurance, old age benefits or other social security obligations, or in connection with or to secure the performance of bids, tenders, trade contracts or leases, or to secure statutory obligations, or stay, surety or appeal bonds, or other pledges or deposits of like nature and all in the ordinary course of business in an aggregate amount of less than One Hundred Thousand Dollars (\$100,000.00); and

(d) Zoning restrictions, easements, minor restrictions on the use of real property, and other minor Liens that do not secure the payment of money or the performance of an obligation and that do not in the aggregate materially detract from the value of a property or asset to, or materially impair its use in the business of the Borrower Parties.

6.02 Indebtedness. Without the prior written consent of Lender, the Borrower Parties shall not at any time create, incur, assume or suffer to exist any indebtedness or financing on or related to all or any portion or all of the Land except as approved in writing by Lender.

6.03 Capital Distributions and Dividends. The Borrower Parties shall not declare, make, pay or agree, become or remain liable to make or pay, any dividends or other distribution of any nature (whether in cash, property, securities or otherwise) on account of or in respect of any membership interests of the Borrower Parties if an Event of Default or Potential Event of Default exists.

6.04 Continuation of or Change in Business. The Borrower Parties shall continue to engage in their business substantially as is currently undertaken, and the Borrower Parties shall not engage in any other business.

6.05 Merger, Consolidation, Business Acquisitions. The Borrower Parties shall not merge or agree to merge with or into or consolidate with or into any other Person without the prior written consent of Lender.

6.06 Margin Stock. The Borrower Parties will not use the proceeds of the Loans, directly or indirectly, to purchase any "margin stock" (within the meaning of Regulations U, G, T or X of the Board of Governors of the Federal Reserve System) or to extend credit to others for purpose of purchasing or carrying, directly or indirectly, any margin stock.

6.07 No Liens on Collateral. The Borrower Parties shall not incur, create, assume or permit to exist, any Lien on all or any of the Collateral assigned to Lender pursuant to this Agreement or any other Loan Document as security for the Note, without the prior written consent of Lender.

6.08 Change in Control of the Borrower parties. The Borrower Parties will not permit a Change in Control (as defined below), without the prior written consent of the Lender, which consent will not be unreasonably withheld. A Change of Control shall mean any one or more of the following: (i) Barrett Hoskins and Mark L. Hoskins shall own (combined, beneficially or of record, directly or indirectly) less than 75.0% of all membership interests of the Borrower Parties, or (ii) at any time Barrett Hoskins and Mark L. Hoskins shall fail

to have the right to receive 80.0% or more of all distributions made by the Borrower Parties, combines, including without limitation liquidating distributions.

## **ARTICLE VII.**

### **DEFAULTS**

7.01 **Events of Default.** An Event of Default shall mean the occurrence or existence of one or more of the following events or conditions (whatever the reason for such Event of Default and whether voluntary, involuntary or effected by operation of law):

(a) The Borrower Parties shall fail to pay when due principal or interest on the Note, any renewal fee, any amount required to be paid to maintain compliance with Section 2.05(f), any amount payable pursuant to this Agreement or any Loan Document or any other amount due hereunder or under any agreement with Lender, and such default shall continue ten (10) consecutive days from the date such payment is due; or

(b) The Borrower Parties shall violate any prohibition on transfer or attempted transfer of all or any portion of the Land, or shall violate any other provision related to the transfer or attempted transfer of all or any portion of the Land as contained in this Agreement.

(c) Any representation, warranty or statement made by the Borrower Parties or Hoskins under this Agreement or the Loan Documents or in any financial statement, certificate, report, exhibit or document furnished by the Borrower Parties or Hoskins to Lender pursuant to this Agreement or the other Loan Documents shall prove to have been false or misleading in any material respect as of the time when made or becomes false or misleading at any time thereafter; or

(d) The Borrower Parties or Hoskins shall default in the performance or observance of any covenant contained in Article V or Article VI hereof and such default shall continue thirty (30) consecutive days; or

(e) The Borrower Parties or Hoskins shall default in the performance or observance of any other covenant, agreement or duty under the Loan Documents, and such default shall continue thirty (30) consecutive days after receipt of written notice by the Borrower Parties or Hoskins from Lender of such default; or

(f) The Borrower Parties or Hoskins (i) shall default (as principal or guarantor or other surety) in any payment of principal of or interest on any obligation for borrowed money in excess of One Hundred Thousand Dollars (\$100,000.00) beyond any period of grace with respect thereto or, if such obligation or obligations is or are payable or repayable on demand, shall fail to pay or repay such obligation or obligations when demanded or (ii) shall default in the observance of any covenant, term or condition contained in any agreement or instrument by which such obligation or obligations is or are created, secured or evidenced if the effect of such default is to cause, or to permit the holder or holders of such obligation or obligations (or a trustee



or agent on behalf of such holder or holders) to cause, all or part of such obligation or obligations to become due before its or their otherwise stated maturity; or

(g) One or more judgments for the payment of money in excess of an amount that would materially adversely affect the financial condition shall have been entered against the Borrower Parties or Hoskins, which judgment or judgments shall have remained undischarged and unstayed for a period of thirty (30) consecutive days; or

(h) A writ or warrant of attachment, garnishment, execution, distraint or similar process shall have been issued against the Borrower Parties or Hoskins which shall have remained undischarged and unstayed for a period of thirty (30) consecutive days; or

(i) Lender shall have determined (which determination shall be conclusive) that a material adverse change has occurred in the financial condition, assets, properties, management, operations or business of the Borrower Parties or Hoskins or that the prospect of payment or performance of any covenant, agreement or duty under this Agreement, or the other Loan Documents is impaired or that Lender is insecure; or

(j) The death, incarceration or incapacitation of any of the Guarantors; or

(k) A proceeding shall have been instituted in respect of the Borrower Parties:

(i) seeking to have an order for relief entered in respect of any Borrower Party or Hoskins or seeking a declaration or entailing a finding that any Borrower Party or Hoskins is insolvent or a similar declaration or finding, or seeking dissolution, winding-up, charter revocation or forfeiture, liquidation, reorganization, arrangement, adjustment, composition or other similar relief with respect to any Borrower Party, Hoskins, their assets or their debts under any law relating to bankruptcy, insolvency, relief of debtors or protection of creditors, termination of legal entities or any other similar law now or hereafter in effect, or

(ii) seeking appointment of a receiver, trustee, custodian, liquidator, assignee, similar official for any Borrower Party or Hoskins or for all or any substantial part of their property; or

(iii) any such proceedings shall result in the entry, making or grant of any such order for relief, declaration, funding, relief, or appointment, or such proceeding shall remain undismissed and unstayed for a period of thirty (30) days or more; or

(l) The Borrower Parties or Hoskins shall become insolvent, shall become generally unable to pay their debts as they become due, shall voluntarily suspend transaction of their business, shall make a general assignment for the benefit of creditors, shall institute a proceeding described in Section (k)(i) or shall consent to any such order for relief, declaration, finding or relief described therein, shall institute a proceeding

described in Section (k)(ii) or shall consent to any such appointment or to the taking of possession by any such official of all or any substantial part of its property whether or not any proceeding is instituted, shall dissolve, wind-up or liquidate itself or any substantial part of its property, or shall take any action in furtherance of any of the foregoing; or

(m) (i) a Termination Event with respect to a Plan shall occur, (ii) any person shall engage in any prohibited transaction involving any Plan, (iii) an accumulated funding deficiency, whether or not waived, shall exist with respect to any Plan, (iv) any Borrower Party or any ERISA Affiliate shall be in "Default" (as defined in Section 4219(c)(5) of ERISA) with respect to payments due to a multiemployer plan resulting from any Borrower Party's or any ERISA Affiliate's complete or partial withdrawal (as described in Section 4203 or 4205 of ERISA) from such Plan, or (v) any other event or condition shall occur or exist with respect to a Single Employer Plan, except that no such event or condition shall constitute an Event of Default if it, together with all other events or conditions at the time existing, would not subject any Borrower Party to any tax, penalty, debt or liability which, alone or in the aggregate, would have a materially adverse effect on any Borrower Party.

7.02 Consequences of an Event of Default. Upon the occurrence of an Event of Default, Lender may demand the unpaid principal amount of the Note, interest accrued thereon and all other amounts owing by the Borrower Parties or Hoskins hereunder or under the Note or other Loan Documents to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived, and an action therefor shall immediately accrue.

7.03 Set-Off. If the unpaid principal amount of the Note, interest accrued thereon or other amount owing by the Borrower Parties hereunder or under the Note shall have become due and payable (by demand or otherwise), Lender and the holder of any participation in the Note shall each have the right, in addition to all other rights and remedies available to it, without notice to the Borrower Parties, to set-off against and to appropriate and apply to such due and payable amounts any Debt owing to, and any other funds held in any manner for the account of, the Borrower Parties by Lender or by such holder, including, without limitation, all funds in all deposit accounts (whether time or demand, general or special, provisionally credited or finally credited, or otherwise) now or hereafter maintained by the Borrower Parties with Lender or such holder. The Borrower Parties hereby consent to and confirm the foregoing arrangements and confirm each of Lender's rights and such holder's rights of banker's lien and set-off. Nothing in this Agreement shall be deemed a waiver or prohibition of or restriction on any of Lender's rights or any such holder's rights of banker's lien or set-off.

7.04 Other Remedies. If one or more Events of Default shall occur, then Lender, in addition to any and all other rights and remedies which Lender may then have hereunder, under the UCC, or under any other instrument, or which Lender may have at Law or in equity or otherwise, may, at its option: (i) in the name of any Borrower Party, or otherwise, demand, collect, receive and receipt for, compound, compromise, settle and give acquittance for, and prosecute and discontinue any suits or proceedings in respect to any or all of the Collateral; (ii) take any action which Lender may deem necessary or desirable in order to realize on the Collateral, including, the power to perform any contract, endorse in the name of any Borrower Party without recourse to such Borrower Party any checks, drafts, notes or other instruments or documents received in payment of or on



account of the Collateral; (iii) enter upon the premises where any of the Collateral not in the possession of Lender is located and take possession thereof and remove the same, with or without judicial process; (iv) reduce their claim to judgment or foreclosure or otherwise enforce the security interests herein granted and assigned, in whole or in part, by any available judicial procedure; (v) after notification, if any, provided for herein, sell, lease, or otherwise dispose of, at the office of Lender, on the premises of any Borrower Party, or elsewhere, all or any part of the Collateral, in its then condition or following any commercially reasonable preparation or processing, and any such sale or other disposition may be as a unit or in parcels, by public or private proceedings, and by way of one or more contracts (it being agreed that the sale of any part of Collateral shall not exhaust Lender's power of sale, but sales may be made from time to time, and at any time, until all the Collateral has been sold or until all of the Borrower Parties' Indebtedness to Lender has been fully paid and performed), and at any such sale it shall not be necessary to exhibit any of the Collateral; (vi) at its discretion, retain the Collateral in satisfaction of the Development Notes whenever the circumstances are such that Lender is entitled to do so under the Code or otherwise; or (vii) exercise any and all other rights, remedies and privileges Lender may have under this Agreement or under the Loan Documents.

7.05 Confession of Judgment. UPON THE OCCURRENCE OF AN EVENT OF DEFAULT AND SAID EVENT OF DEFAULT IS CONTINUING, THE BORROWERS HEREBY IRREVOCABLY EMPOWER ANY ATTORNEY OF ANY COURT OF RECORD WITHIN THE UNITED STATES OF AMERICA OR ELSEWHERE TO APPEAR FOR BORROWERS AND, WITH OR WITHOUT COMPLAINT FILED, CONFESS JUDGMENT AGAINST BORROWERS IN FAVOR OF ANY HOLDER HEREOF AS OF ANY TERM, FOR THE UNPAID BALANCE OF THE PRINCIPAL DEBT, ADDITIONAL LOANS AND ADVANCES, AND ALL OTHER SUMS PAID BY HOLDER TO OR ON BEHALF OF BORROWERS PURSUANT TO THE TERMS OF THIS NOTE, TOGETHER WITH UNPAID INTEREST THEREON, COSTS OF SUIT AND A REASONABLE ATTORNEY'S COMMISSION, BUT IN NO EVENT LESS THAN \$1,500.00, WHICHEVER IS GREATER. THE BORROWERS HEREBY FOREVER WAIVE AND RELEASE ALL ERRORS IN SAID PROCEEDINGS, WAIVE THE STAY OF EXECUTION, THE RIGHT OF INQUISITION, AND EXTENSION OF TIME OF PAYMENT. NO SINGLE EXERCISE OF THE FOREGOING POWER TO CONFESS THE JUDGMENT OR A SERIES OF JUDGMENTS SHALL BE DEEMED TO EXHAUST THE POWER, WHETHER OR NOT ANY SUCH EXERCISE SHALL BE HELD BY ANY COURT TO BE INVALID, VOIDABLE, OR VOID, BUT THE POWER SHALL CONTINUE UNDIMINISHED, AND IT MAY BE EXERCISED FROM TIME TO TIME AS OFTEN AS THE HOLDER HEREOF SHALL ELECT UNTIL SUCH TIME AS THE HOLDER SHALL HAVE RECEIVED PAYMENT IN FULL OF THE PRINCIPAL DEBT, ADDITIONAL LOANS AND ADVANCES, SUMS PAID, INTEREST AND COSTS.

IT IS HEREBY ACKNOWLEDGED THAT THE CONFESSION OF JUDGMENT PROVISION HEREIN CONTAINED WHICH AFFECTS CERTAIN LEGAL RIGHTS OF THE BORROWERS HAVE BEEN READ, UNDERSTOOD AND VOLUNTARILY AGREED TO BY IT.

7.06 Non-Assumption of Liability. Nothing herein contained shall relieve the Borrower Parties or Hoskins from performing any covenant, agreement or obligation on the part of the Borrower Parties or Hoskins to be performed under or in respect to any of the Collateral or from any liability to any party or parties having an interest therein or impose any liability on Lender for the acts or omissions of the Borrower Parties or Hoskins in connection with any of the Collateral. Lender shall not assume or become liable for, nor shall it be deemed

or construed to have assumed or become liable for, any obligation of the Borrower Parties or Hoskins with respect to any of the Collateral, or otherwise, by reason of the grant to Lender of security interests in the Collateral.

7.07 Cross-Default. Borrower Parties and Hoskins acknowledge and agree that, at the discretion of the Lender, a default or Event of Default under any Loan Document shall constitute a default or Event of Default under all other Loan Documents, notwithstanding any term or terms of a Loan Document to the contrary.

#### **ARTICLE VIII.** **MISCELLANEOUS**

8.01 Business Days. Except as otherwise provided herein, whenever any payment or action to be made or taken hereunder or under the Development Notes shall be stated to be due on a day which is not a Business Day, such payment or action shall be made or taken on the next following Business Day and such extension of time shall be included in computing interest or fees, if any, in connection with such payment or action.

8.02 Records. The unpaid principal amount of the Development Notes, the unpaid interest accrued thereon, the interest rate or rates applicable to such unpaid principal amount, the duration of such applicability and the accrued and unpaid commitment fee shall at all times be ascertained from the records of Lender which shall be conclusive absent manifest error.

8.03 Amendments and Waivers. Lender and the Borrower Parties, acting together, may from time to time enter into agreements amending, modifying or supplementing this Agreement or the Development Notes or any other documents or instruments pursuant to or in connection herewith or changing the rights of Lender or of the Borrower Parties hereunder or thereunder, and Lender may from time to time grant waivers or consents to a departure from the due performance of the obligations of the Borrower Parties hereunder or thereunder. Any such agreement, waiver or consent must be in writing and shall be effective only to the extent specifically set forth in such writing. In the case of any such waiver or consent relating to any provision hereof, any Event of Default or Potential Default so waived or consented to shall be deemed to be cured and not continuing, but no such waiver or consent shall extend to any other or subsequent Event of Default or Potential Default or impair any right consequent thereto.

8.04 No Implied Waiver, Cumulative Remedies. No course of dealing and no delay or failure of Lender in exercising any right, power or privilege under this Agreement, the Note, the Loan Documents or any other documents or instruments pursuant to or in connection herewith shall affect any other or further exercise thereof or exercise of any other right, power or privilege except as and to the extent that the assertion of any such right, power or privilege shall be barred by an applicable statute of limitations; nor shall any single or partial exercise of any such right, power or privilege or any abandonment or discontinuance of steps to enforce such a right, power or privilege preclude any other exercise thereof or of any other right, power or privilege. The rights and remedies of Lender under this Agreement, the Note or any other documents or instruments pursuant to or in connection herewith are cumulative and not exclusive of any rights or remedies which Lender would otherwise have.



8.05 Notices. All notices, requests, demands, directions and other communications (collectively "notices") under the provisions of this Agreement or the Note shall be in writing (including telexed communication) unless otherwise expressly permitted hereunder and shall be sent by first-class or first-class express mail, or by telex with confirmation in writing mailed first-class, in all cases with charges prepaid, and any such properly given notice shall be effective when received. All notices shall be sent to the party in question at the address stated in Section 1.01 or in accordance with the last unrevoked written direction from such party to the other parties.

8.06 Expenses; Taxes, Attorneys' Fees. The Borrower Parties agree to pay or cause to be paid and to save Lender harmless against liability for the payment of all reasonable out-of-pocket expenses including, but not limited to, fees and expenses of counsel for Lender, incurred by Lender from time to time (i) relating to any requested amendments, waivers or consents to this Agreement, the Note or any such documents or instruments and, (ii) arising in connection with Lender's enforcement or preservation of rights under this Agreement and the Note or any such documents or instruments including, but not limited to, such expenses as may be incurred by Lender in the collection of the outstanding Note. The Borrower Parties agree to pay all stamp, document, transfer, recording or filing taxes or fees and similar impositions now or hereafter determined by Lender to be payable in connection with this Agreement, the Note or any other documents, instruments or transactions pursuant to or in connection herewith, and the Borrower Parties agree to save Lender harmless from and against any and all present or future claims, liabilities or losses with respect to or resulting from any omission to pay or delay in paying any such taxes, fees or impositions. In the event of a determination adversely to the Borrower Parties of any action at law or suit in equity in relation to this Agreement, the Note, or any Loan Document, the Borrower Parties will pay, in addition to all other sums which the Borrower Parties may be required to pay, a reasonable sum for attorney's fees incurred by Lender or the holder of such Note in connection with such action or suit. All payments due from the Borrower Parties under this Section 8.06 shall be added to and become part of the Note, as applicable, until paid in full.

8.07 Severability. The provisions of this Agreement are intended to be severable. If any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

8.08 Governing Law. This Agreement shall be deemed to be a contract under the laws of the Commonwealth of Pennsylvania, and for all purposes shall be governed by and construed and enforced in accordance with the laws of said Commonwealth, without regard to the principles of conflicts of laws thereof.

8.09 Prior Understandings. This Agreement supersedes all prior understandings and agreements, whether written or oral, among the parties relating to the transactions provided for herein.

8.10 Duration; Survival. All representations and warranties of the Borrower Parties and Hoskins contained herein or made in connection herewith shall survive the making of and shall not be waived by the

execution and delivery of this Agreement or the Note, any investigation by Lender, and Lender may hereby rely upon same. Notwithstanding termination of this Agreement or an Event of Default, all covenants and agreements of the Borrower Parties and Hoskins shall continue in full force and effect from and after the date of this Agreement so long as the Borrower Parties and Hoskins may borrow hereunder and until payment in full of the , Note interest thereon, Loan Fees and all other obligations of the Borrower Parties and Hoskins under this Agreement or the Note. Without limitation, it is understood that all obligations of the Borrower Parties and Hoskins to make payments to or indemnify Lender shall survive the payment in full of the Development Notes and of all other obligations of the Borrower Parties and Hoskins thereunder and hereunder.

8.11 Counterparts. This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

8.12 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Lender, the Borrower Parties, and their successors and assigns, and Hoskins and his heirs, successors and assigns, except that the Borrower Parties and Hoskins may not assign or transfer any of their rights hereunder without the prior written consent of Lender. Except to the extent otherwise required by the context of this Agreement, the word "Lender" where used in this Agreement shall mean and include any holder of the Development Notes originally issued to Lender, and each such holder of the Note shall be bound by and have the benefits of this Agreement the same as if such holder had been a signatory hereto.

8.13 Participation. Without notice to the Borrower Parties or Hoskins, Lender may participate, sell or assign all or part of the credit facilities evidenced by the Note and, at any time and from time to time, all information on the Borrower Parties and Hoskins may be provided to any potential purchaser of or participant in the Note, any governmental authority, Lender's auditory and professional advisors, any person or entity which in the ordinary course of its business makes credit reference inquiries, and as may be necessary or advisable for the preservation of Lender's rights.

8.14 Condemnation Matters. Any condemnation of the Land, whether through a release of mortgage, recording of easements or otherwise, shall be subject to Lender's prior approval. All proceeds from any condemnation shall be applied by Lender to the outstanding principal balance of the Development Notes, at Lender's discretion as to the allocation among the Note. Failure to comply with the terms of this Section shall constitute an Event of Default under Section 7.01.

8.15 AMENDED AND RESTATED. THIS AGREEMENT AMENDS, RESTATES SUPPLEMENTS AND CONSOLIDATES THE CREDIT AGREEMENT AND THE CREDIT AMENDMENTS PRESENTLY APPLICABLE AND IS NOT INTENDED AS A SUBSTITUTION OR NOVATION THEREOF OR OF ANY OF THE DEVELOPMENT NOTES. EXCEPT AS AMENDED HEREBY, ALL RIGHTS, OBLIGATIONS, TERMS AND CONDITIONS OF THE CREDIT AGREEMENT, THE CREDIT AMENDMENTS AND THE ORIGINALNOTES REMAIN IN FULL FORCE AND EFFECT WITH ANY CONTRADICTION IN TERMS BEING RESOLVED WITH THIS AGREEMENT TAKING PRECEDENCE.



8.16 Jurisdiction; Waiver of Trial by Jury. The Borrower Parties acknowledge and unconditionally and irrevocably agree and consent:

(a) To the jurisdiction of any federal or state court located within the Commonwealth of Pennsylvania which Lender chooses, in its sole discretion, for, with respect to, or concerning any suit, action, or other legal proceeding pertaining to or in any way or manner concerning, arising out of, or relating to the collection or enforcement of the Note, any of Lender's rights, remedies, or recourses with respect to the Note, this Agreement, or any provision or provisions of any other Loan Document; provided, however, that any foreclosure action on the Mortgages will be in the state court of the county in which the Mortgaged Land is situate; and

(b) That service of any court paper, including, without limitation, any process, complaint, subpoena, answer, reply, response, motion, order, or notice, may be effected on the Borrower Parties by mail, addressed and mailed as provided herein or in such other manner as may be provided under applicable laws or rules of the Commonwealth of Pennsylvania or the federal districts of the Commonwealth of Pennsylvania. However, nothing contained herein shall prevent or limit Lender from bringing or instituting any suit, action, or other legal proceeding or exercising any of its rights, remedies, or recourses against any security for the Development Notes or against the Borrower Parties or Hoskins, or any property of the Borrower Parties or Hoskins, within any other state or jurisdiction. Initiating, bringing, or instituting any such suit, action, or proceeding in any other state or jurisdiction shall in no way or manner constitute a waiver or release of the provision and agreement herein that the laws of the Commonwealth of Pennsylvania shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights, powers, duties, and obligations of the parties upon whom this Agreement shall be binding or the submission by the Borrower Parties or Hoskins to personal jurisdiction within the Commonwealth of Pennsylvania. The means and manner of obtaining personal jurisdiction and perfecting service of process contained herein are not intended to be and shall not be construed to be exclusive, but are and shall be cumulative and in addition to all other means and manner of obtaining personal jurisdiction and perfecting service of process as now or hereafter provided by the laws of the Commonwealth of Pennsylvania or the federal districts of the Commonwealth of Pennsylvania.

(c) BY EXECUTION OF THIS AGREEMENT, THE BORROWER PARTIES AND HOSKINS MUTUALLY, KNOWINGLY, WILLINGLY, AND VOLUNTARILY WAIVE AND RELEASE ANY AND ALL RIGHTS TO TRIAL BY JURY, AND SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM, OR ANY OTHER ACTION OR LITIGATION PROCEEDING BASED UPON OR ARISING OUT OF THE LOAN TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT. THE BORROWER PARTIES AND HOSKINS FURTHER WAIVE AND RELEASE ANY AND ALL RIGHTS TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED, WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED. THIS SUBPARAGRAPH AND THE PROVISIONS HEREIN CONTAINED CONSTITUTE AN IRREVOCABLE WAIVER AND RELEASE.

[Signature page to follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly and properly executed as of the date first above written.

THE BORROWER PARTIES:

BENJAMIN MARCUS HOMES, L.L.C.

By: /s/ Mark L. Hoskins

\_\_\_\_\_  
Name: Mark L. Hoskins

Title: Manager

INVESTOR'S MARK ACQUISITIONS, LLC

By: /s/ Mark L. Hoskins

\_\_\_\_\_  
Name: Mark L. Hoskins

Title: Manager

339 JUSTABOUT LAND CO., LLC

By:

\_\_\_\_\_  
Name: Mark L. Hoskins

Title: Manager

LENDER:

SHEPHERD'S FINANCE, LLC

By: /s/ Dan Wallach

\_\_\_\_\_  
Name: Dan Wallach

Title: Chief Executive Officer



The Guarantors join in the execution of this Agreement to evidence their agreement to the applicable provisions of this Agreement.

GUARANTORS:

BENJAMIN MARCUS HOMES, L.L.C.

By: /s/ Mark L. Hoskins

\_\_\_\_\_  
Name: Mark L. Hoskins

Title: Manager

INVESTOR'S MARK ACQUISITIONS, LLC

By: /s/ Mark L. Hoskins

\_\_\_\_\_  
Name: Mark L. Hoskins

Title: Manager

/s/ Mark L. Hoskins

\_\_\_\_\_  
Mark L. Hoskins

/s/ Barrett Hoskins

\_\_\_\_\_  
Barrett Hoskins

**Exhibit 21.1**

**SUBSIDIARIES**

<b>Name</b>	<b>Jurisdiction of Formation</b>
Shepherd's Stable Investments, LLC	Florida

**Exhibit 31.1****CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER  
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Daniel M. Wallach, certify that:

1. I have reviewed this Annual Report on Form 10-K of Shepherd's Finance, LLC;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. I am responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15 (e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under my supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under my supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. I have disclosed, based on my most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: March 10, 2022

By: /s/ Daniel M. Wallach  
Daniel M. Wallach  
Chief Executive Officer and Manager  
(Principal Executive Officer)

## Exhibit 31.2

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER**  
**Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Catherine Loftin, certify that:

1. I have reviewed this Annual Report on Form 10-K of Shepherd's Finance, LLC;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. I am responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15 (e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under my supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under my supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. I have disclosed, based on my most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: March 10, 2022

By: /s/ Catherine Loftin  
Catherine Loftin  
Chief Financial Officer  
(Principal Financial and Accounting Officer)

**Exhibit 32.1**

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER**  
**Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Shepherd's Finance, LLC, (the "Company"), in connection with the Company's Annual Report on Form 10-K for the period ended December 31, 2021 (the "Report") hereby certifies, to his knowledge, that:

- (i) the Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 10, 2022

By:                     /s/ Daniel M. Wallach                      
Daniel M. Wallach  
Chief Executive Officer and Manager  
(Principal Executive Officer)

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**Exhibit 32.2****CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER****Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Shepherd's Finance, LLC, (the "Company"), in connection with the Company's Annual Report on Form 10-K for the period ended December 31, 2021 (the "Report") hereby certifies, to her knowledge, that:

- (i) the Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 10, 2022

By: /s/ Catherine Loftin  
Catherine Loftin  
Chief Financial Officer  
(Principal Financial and Accounting Officer)

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