

Congress of the United States

Washington, DC 20510

August 2, 2024

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Ave., SE
Washington, DC 20590

Dear Secretary Buttigieg,

Thank you for your work and collaboration across federal agencies to address the ongoing housing crisis. We write to you about a recent sharp rise in demand for housing in cities and a sharp decline in demand for commercial office space due to the rise of remote work.¹ Converting unused office space into residential buildings is a promising solution to address this growing demand for housing in cities and would support critical Biden Administration priorities to bring more supply online and ease housing costs for Americans.²

In October 2023, the White House publicized federal infrastructure funds available for these types of building conversions through the Department of Transportation (DOT), Department of Housing and Urban Development (HUD), Environmental Protection Agency (EPA), United States Department of Agriculture (USDA), and Department of the Treasury (UST) grant programs.³ However, federal funding comes with long loan processing times and delays for investment grade ratings, revenue projections, and environmental reviews, which undermine the effectiveness of federal investments to the point of making them unusable.⁴ Furthermore, while existing categorical exclusions for the National Environmental Policy Act (NEPA) at the Federal Transit Administration (FTA) can presently be utilized for conversions, it is not made explicitly clear, creating confusion for businesses.

To streamline office-to-residential conversions, we urge you to take the following actions:

- (1) Issue guidance clarifying that FTA categorical exclusions can be utilized for office-to-residential conversions.**
- (2) Utilize the FTA's existing categorical exclusion for current office-to-residential conversion projects in the pipeline and under DOT's authority.⁵**
- (3) To make the categorical exclusion clearer for developers, begin the rulemaking process to update the categorical exclusion to explicitly describe its applicability for office-to-residential projects, either through a new categorical exclusion or by amending the existing language.**

¹ ["US office occupancy faces 'black hole' of remote work, says Green Street"](#), Reuters (2024).

² ["President Biden Announces New Actions to Ease the Burden of Housing Costs"](#), White House (2022), page 9.

³ ["Commercial to Residential Conversions: Guidebook to Available Federal Resources"](#), White House (2023).

⁴ ["Why a White House Plan to Fund Office-to-Housing Conversions Isn't Working Yet"](#), Bloomberg (2024).

⁵ [23 CFR 771.118\(c\)\(7-11\)](#)

The Benefits of Office-to-Residential Conversion

Economic Benefits: America's cities are engines of innovation and growth. However, a limited housing supply has become a top contributor to rising costs of living and a key constraint on economic mobility.⁶ The rise of remote work has left American downtowns full of unused office buildings at a time when housing costs continue to soar, with office vacancies rising to nearly 20 percent in the first quarter of 2024.⁷ The conversion of office buildings to housing would increase access to dynamic labor markets, revitalize downtown areas, and lower housing costs.⁸

Environmental Benefits: Compared to business-as-usual, bottom-up construction, converting buildings reduces carbon emissions by 50 to 75 percent.⁹ Conversions would further reduce carbon emissions by creating new residential units in city centers, where residents have much lower carbon footprints associated with public transit and denser housing.¹⁰ Additionally, expanding city housing stock could help reduce demand for new development in undeveloped areas. Research shows that office conversion results in fewer greenhouse gasses compared to bottom-up construction, and that limits on dense urban apartments lead to more construction in previously undeveloped areas.¹¹ Finally, office-to-residential construction develops spaces currently underutilized for their intended purpose and requires minimal changes to a building's footprint. This means that projects are unlikely to create significant environmental impacts.

Barriers to Office-to-Residential Conversions

The main barrier for office-to-residential conversions is cost. Outside a handful of cities with extraordinarily high rents, financing conversions may not be profitable.¹² Federal grants can bridge the financial gap and invest in revitalization efforts. However, lengthy grant-making processes and requirements for environmental review, which add millions in fees and years of delay, complicate access to this funding and force developers to forgo federal dollars.⁴

Issue Guidance Clarifying the Applicability of, and Utilize, the Existing FTA Categorical Exclusions for Conversion Projects

Under FTA's existing categorical exclusion, 23 CFR 771.118(c)(7-11), DOT has authority to categorically exclude office-to-residential conversion projects under NEPA.¹³ Unfortunately, this is not clear to developers because the language does not explicitly describe conversion projects. Issuing clarifying guidance to explicitly state that office-to-residential conversion projects are categorically excluded under NEPA could help bring in more projects looking to take advantage of this federal funding.

⁶ [“Why Housing Matters for Upward Mobility: Evidence and Indicators for Practitioners and Policymakers”](#) (2021).

⁷ [“Office Vacancy Rate Nears 20% to Set Fresh Record, Moody's Says”](#) Bloomberg (2024).

⁸ [“Office to Residential Conversions”](#), U.S. Department of Housing and Urban Development (2023)

⁹ [“Converting Brown Offices To Green Apartments”](#) Gupta, Arpit et al. (working paper, 2023).

¹⁰ [“Spatial Distribution of U.S. Household Carbon Footprints Reveals Suburbanization Undermines Greenhouse Gas Benefits of Urban Population Density”](#), Jones, Christopher, et al. (2014).

¹¹ [“Analyzing Building Height Restrictions: Predicted Impacts, Welfare Costs, and a Case Study of Bangalore, India”](#) Bertaud, Alain et al. (2016).

¹² [“Converting Brown Offices To Green Apartments”](#) Gupta, Arpit et al. (working paper, 2023).

¹³ [23 CFR 771.118\(c\)\(7-11\)](#)

For applicable projects, we encourage DOT to utilize the categorical exclusion for much-needed conversion projects less risky for developers. Additionally, to encourage maximum participation, we encourage DOT to communicate clearly to developers that they will receive a streamlined application and review process.

Establishing a Categorical Exclusion for Office Conversions Projects

We urge DOT, either through its own regulations or by directing FTA, to categorically exclude, explicitly, federal actions that convert existing commercial office buildings into residential dwellings. An explicit categorical exclusion will ensure all conversion projects are covered and will send a clear signal that developers will receive a streamlined process. In addition, a new categorical exclusion will allow other federal agencies to adopt the new language, further streamlining the approval process for conversion projects across the government. The new exclusion should allow reasonable size increases to accommodate the practical changes needed in many conversions. We recommend allowing at least a 20 percent increase in building size.

To ensure that the new exclusion is appropriate under NEPA, we encourage you to consider utilizing the following parameters for proposed conversion projects:

- (1) Covered actions are limited to renovation efforts to convert non-residential structures to residential housing on previously developed sites.
- (2) Covered actions are in accordance with applicable local land use and zoning requirements.
- (3) Covered actions comply with state and local building requirements and follow best practices for mitigating construction disturbances.
- (4) In areas with scarce water resources, covered actions may not increase utility water use by more than 20 percent compared to previous usage.¹⁴
- (5) The action does not impact environmentally sensitive areas such as defined in [10 C.F.R. § Pt. 1021, Subpt. D, App. B \(B\)](#).

Consultation with the Housing and Urban Development Corporation

The Fiscal Responsibility Act gives federal agencies the authority to adopt existing categorical exclusions from other agencies.¹⁵ A new categorical exclusion at DOT for office-to-residential conversions would allow other federal agencies to adopt the updated exclusion when the need arises. We encourage you to make the updated categorical exclusion broad and applicable to foreseeable actions at other federal agencies. Specifically, we encourage consultation with HUD to ensure its actions will be covered, as the Department plays a key role in housing supply investments.

A recent study estimates that up to 15 percent of office buildings in major commercial districts may be eligible for conversion to residential buildings.⁸ It is clear the U.S. government must do more to help America's downtowns get back on track by providing the housing options to meet citizens' needs. We know the most sustainable building is the one that you do not have to build,

¹⁴ This criteria can be retooled to accommodate any impacts of increased water use, either in water-scarce regions or nationally. DOT may also develop a metric for appropriate water use increases given the costs of water in different regions. The [EPA's Watershed Index Online](#) (WSIO) offers a framework for determining areas that experience water scarcity.

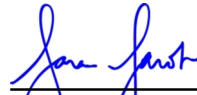
¹⁵ 42 USC § 4336c

and we urge DOT to update its existing categorical exclusions to include office-to-residential building conversions. We thank you for your attention to this issue and we look forward to working together on a path forward.

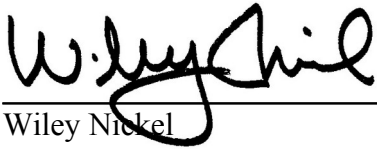
Sincerely,



Scott H. Peters
Member of Congress



Sara Jacobs
Member of Congress



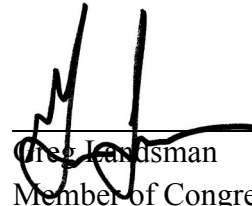
Wiley Nickel
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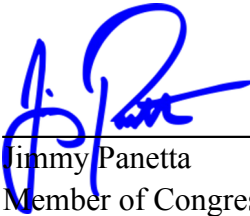
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