Staff comment related to “wrap around” shoreline setback:

One option that has been proposed for the SMP is to create a shoreline setback that would “wrap around” existing structures, such that structures closer than the standard shoreline setback to the lakes would be “conforming”. The following staff comments related to the existing zoning and shoreline code provisions, and the proposed wrap around setback may be helpful in council’s consideration.

Current zoning provisions related to setbacks:
A non conforming structure that is destroyed or demolished can be replaced in the same location. It does not have to be moved as long as this occurs within 12 months of the removal. There is also a provision for a one time expansion of a structure that is non conforming as relates to zoning provisions to be expanded by 10%.

Existing SMP:
Non-conforming structures may be altered only when the alteration does not increase the non-conformance. When a structure is altered more than 50% of its fair market value, it must be brought into conformance.

Council review draft SMP
The Council review draft of the SMP is similar to the existing zoning provisions for other types of non-conformance in the city. A non-conforming structure can be replaced, and the draft provides an allowance (similar to the CAO) for expansion of a structure that is non-conforming related to shoreline.

Wrap around setback:
The shoreline setback around the house would differ from the zoning provisions in that the setback requirement would vary depending upon the particular circumstances of individual lots and their existing structures. A structure that does not meet the standard shoreline setback would be subject to a unique setback area established for each such structure.

Administrative challenges to wrap around setback:
Upon application for a permit, an individual determination would have to be made for each application as to where the shoreline setback is located. Limited information is available in public records related to current structure locations. Aerial photography does not provide dimensions, is not very current, and trees often obscure structures. Aerial photos could be useful in some cases to determine the basic fact that a structure is located on the lot.

Due to this lack of available information, the applicant would be responsible for providing accurate information, most likely an “as-built” survey of the footprint, and documentation of the structure legality and/or construction date that would establish the setback. An additional survey would likely be needed when construction is complete to verify correct placement. In this scenario, a record keeping and mapping system would also need to be developed for the City to begin to keep track of footprints, and approved modifications.

Implementation of the wrap around setback is not recommended due to these administrative challenges and additional burden and cost for permit applicants. Additionally, this type of setback provision would be inconsistent with zoning provisions that are in effect for other types of setbacks in the City.

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