

ITEM #: 25
DATE: 01-23-24
DEPT: Police

COUNCIL ACTION FORM

**SUBJECT: 12-MONTH LIQUOR LICENSE RENEWAL APPLICATION - CACTUS, 223
WELCH AVENUE**

BACKGROUND:

Cactus has applied for new 12-month Class C Retail Alcohol License for its new location at 223 Welch Avenue. These state licenses and permits must receive approval by the local authority (City Council), before they can be issued by the State. Previously, the same owner operated an establishment at 2420 Lincoln Way called Cactus 2.

Section 17.16 of the Ames Municipal Code permits minors to be on the premises of a liquor license establishment where 50% or less of the business conducted is the sale or dispensing of alcohol. This type of operation is referred to locally as a “50/50”. Additionally, a liquor-serving establishment may be granted permission to allow minors on the premises during certain hours if the business can demonstrate a pattern of sales that indicate food is more than 50% of the business' sales during those particular hours of the day. At all other times, such an establishment operates more akin to a bar and must ensure that no minors are on the premises.

As stated above, the owner of the establishment and liquor license holder previously operated at a different location at 2420 Lincoln Way and held a liquor license at that location from February 2021 through late December 2023. During the time the establishment was on Lincoln Way, they were operating as a 50/50 establishment.

During that the last renewal period, beginning in February 2023, through the closure of the establishment in October 2023, 15 patrons were cited for possession of alcohol under the legal age, 5 patrons were cited for on premise, two citations were issued to the manager for failing to prevent minors from consuming alcohol, and one citation was issued for a fake ID. Five of the citations were issued to two patrons for during one event. One patron was cited for minor on premise and possession of alcohol under the legal age; the other was cited for minor on premise, possession of alcohol under the legal age, and fake ID.

In addition, the Police Department conducts compliance checks on establishments that hold liquor licenses in the City. These compliance checks are completed by taking an underage person to liquor license establishments, who then attempts to purchase alcohol at said establishments. A business passes the check if their employee asks for identification and rightly refuses the purchase. An establishment fails the compliance check if the employee sells to the underage person. Cactus 2 passed three compliance checks on February 23, May 4, and September 29 of 2023. They also failed one compliance check on June 30, 2023.

In September 2023, the Police Department worked with Cactus 2 management to improve their performance around their 50/50 status as it appeared that the vast majority of the violations occurred right around the start of ISU Fall classes, in a relatively short period of time. The Chief of Police obtained a better plan of operations to ensure minors were not served or came into possession of alcohol and approved the plan on September 13, 2023. The Police Department also noted that up until

the early September violations, staff were not attending quarterly bar meetings held by the Police Department. However, on September 24, 2023, the Police Department conducted two ID trainings at the establishment where 12 employees attended.

In preparation for their move to the new location on Welch Avenue, the Chief of Police contacted the owner, Rene German, to discuss a new 50/50 plan as they intend to operate in a similar manner to before. Rene informed the Chief of Police that they have all new staff at the new location. The following plan was submitted:

- Servers and staff will ID and monitor patrons to ensure drinks/pitchers are not shared with underage patrons.
- At 10:00 PM, the establishment will discontinue alcohol service reducing the chances an underage patron will be in possession of or consuming alcohol and it will also alleviate on-premise violations by underage patrons.
- Staff will complete I-Pact training through the state and attend the Police Department quarterly bar meetings for bar owners and managers.
- Cactus management and owner will conduct their own, random but regular “sting operations” to ensure there is no admittance or service of underage individuals.

In addition, staff will use the free ID app available from the state to assist in checking IDs until they are able to afford to purchase scanners. Rene also said there will be consequences for employees who do not follow the rules. He also understood the Chief of Police may revoke their 50/50 status if they are unable to follow the plan and if they are unable to ensure minors are not in possession of or consuming alcohol on premise.

While the Chief of Police has some reservations about their ability to keep minors from being in possession of or consuming alcohol on premise, their performance had improved at the previous location prior to the close and move to the new location. If the establishment is not able to follow the plan submitted and keep minors from being in possession of or consuming alcohol or if the Chief of Police revokes their 50/50 status for cause, the matter will be brought to the City Council for potential further action. For these reasons, the Chief of Police recommends approval of the license.

ALTERNATIVES:

1. Approve the application for a 12-month liquor license.
2. Deny the application for a 12-month liquor license.

CITY MANAGER'S RECOMMENDED ACTION:

Since the violations noted at the previous locations around the start of ISU classes, Cactus did make several changes to its business operations to keep minors from being in possession of or consuming alcohol. While it was been a short period of time between then and the closure of the old location, their performance had improved. The Chief of Police has worked with the establishment to establish a plan of operations for the new business. If they do not comply with the plan, the Police Department will bring that back to the City Council for possible action. **Therefore, it is the recommendation of the City Manager that the City Council support the advice of the Chief of Police to approve Alternative No. 1, as noted above.**

If the City Council chooses to deny the requested license, the denial can be appealed, first to the ABD, then to an Administrative Law Judge, and then the District Court. If the applicant files an appeal with ABD, it is allowed to continue to operate. If the appeal(s) are not successful, alcohol may not be sold on the premise for one year, unless or until a new licensee applies for and is granted a new liquor license.